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MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Residential Rent Stabilization  
and Arbitration Board

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,  
January 6, 1998  
25 Van Ness Avenue, #70, Lower Level

AGENDA

I. Call to Order

LARRY BEACH BECKER

II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY J. JUSTMAN

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1410 - 15th St.

S001-24A

The landlord appeals the decision granting rent reductions due to decreased housing services.

B. 757 Sutter St. #205

S001-25A

The landlord appeals the decision granting a claim of decreased housing services because of the landlord's change in policy regarding the issuance of keys to the units.

C. 858 Greenwich St.

S001-26A

The landlord appeals the decision ordering refunds due to rent overpayments.

D. 724 Leavenworth St., Apt. F

S001-27A

The landlord appeals the decision granting rent reductions due to decreased housing services.

E. 46 Belvedere St.

S001-28A

The landlord appeals the decision certifying capital improvement costs only as to the portion determining overpayments in rent.

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F. 750 O'Farrell St. S001-41R

The tenant appeals the denial of his petition claiming decreased housing services due to the loss of quiet enjoyment of the unit.

G. 45 Magnolia Ave. S001-29A

The landlords appeal the dismissal of their petition for certification of capital improvement costs and increases due to increased operating expenses due to their failure to appear at the hearing.

H. 2109 Pine St. S001-42R

The tenants appeal the decision granting a rent increase due to the Past Rent History of a Newly Covered Unit under Proposition I.

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Eviction

A. 122 Baker St. (S003-17E)

B. 1133B Green St. (R007-43E)

IX. Old Business

Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Evictions for Breach of Unilaterally Changed Covenants; Changes in Roommates; and "Master Tenants"

IV. Remarks from the Public (cont.)

X. New Business

Departmental Budget

XI. Calendar Items

XII. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, January 6, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENT  
JAN 14 1998  
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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Vice-President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Justman; Marshall;  
Moore; Mosser; Wasserman.  
Staff Present: Grubb; Wolf.

President Lightner appeared on the record at 6:07 p.m.; Commissioner  
Murphy arrived at 6:15 p.m. Commissioner Justman went off the record at  
5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 9, 1997.  
(Marshall/Gruber: 5-0)

IV. Consideration of Appeals

A. 1410 - 15th St. S001-24A

The tenant's petition alleging substantial decreases in housing services was  
granted, in part, and the landlord was found liable to the tenant in the amount of  
\$1,605.00 due to habitability defects on the premises. On appeal, the landlord  
maintains that she failed to receive the Notice of Hearing and attaches the  
requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Marshall: 5-0)

B. 757 Sutter St. #205 S001-25A

The tenant's petition alleging a substantial decrease in housing services was  
granted, and the landlord was found liable to the tenant in the amount of \$30.00  
per month because the security system in the building was changed and  
tenants are now only issued one key to the front door. On appeal, the landlord  
asserts that: the tenant failed to prove the value of the alleged service





reduction; the tenant was not entitled to additional keys to the unit and therefore had not suffered a decrease in service; and the tenant had not been denied access to the premises, but merely suffered an inconvenience in not having an extra key available.

MSC: To accept the appeal and remand the case to the same hearing officer to explore whether the "one key per tenant" policy is sufficiently flexible to accommodate inconveniences experienced by the tenant; and to reexamine the amount of the rent reduction. Another hearing will be held only if necessary. (Marshall/Becker: 5-0)

C. 858 Greenwich St.

S001-26A

The landlord's appeal was filed slightly over three weeks late because the landlord had been out of the country at the time the Decision of Hearing Officer was issued and, subsequent to his return, suffered severe medical problems.

MSC: To find good cause for the late filing of the appeal. (Becker/Marshall: 5-0)

The tenant's petition alleging unlawful increases in rent was granted and the landlords were found liable to the tenant in the amount of \$1,700.00 due to rent overpayments. The landlords appeal the decision, claiming that the tenant's rent had been set artificially low due to her provision of managerial services to the property; that the provisions of Proposition I apply, because although the owner was deceased at the time the rent increase took effect, the legal definition of "person" includes a trust; that the landlords were prejudiced in that they were not represented by an attorney; that the imposition of a substandard rent upon private property constitutes an unconstitutional "taking"; that they are not receiving a fair return upon their investment; and that the tenant operates a business upon the premises.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

D. 724 Leavenworth St., Apt. F

S001-27A

The tenant's petition alleging a substantial decrease in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$92.00 due to the lack of hot water in the unit for a fourteen-day period. On appeal, the landlord asserts that: since it has not been proven that the tenant has Aids, this should not have been a factor in the hearing officer's determination; the hearing officer mistakenly depicted a Notice of Complaint as a Notice of Violation; the hearing officer failed to allow relevant evidence and testimony pertaining to the fact that the boiler had been vandalized; unproven allegations were accepted as fact by the hearing officer; the decision contained multiple errors and inaccuracies that are contrary to the evidence; and, since the boiler provides both heat and hot water, the conclusions regarding the provision of both services should be the same.



MSC: To recuse Commissioner Becker from consideration of this appeal. (Justman/Lightner: 5-0)

MSC: To deny the appeal. (Marshall/Justman: 3-2; Gruber, Lightner dissenting)

E. 46 Belvedere St.

S001-28A

The landlord's petition for certification of the costs of painting the exterior of the building was granted. However, the landlord was found liable in the amount of \$2,041.09 to the tenant in one unit due to an unlawful rent increase. The landlord only appeals that portion of the decision determining rent overpayments, explaining that the base rent figure used in the petition for that unit was in error.

MSC: To accept the appeal and remand the case to the hearing officer on the record to issue a correction regarding the tenant's rent history. (Marshall/Lightner: 5-0)

F. 750 O'Farrell St.

S001-41R

The tenant's petition alleging substantial decreases in housing services largely due to noise from an upstairs unit was denied because the hearing officer found that the tenant's expectations and conduct were unreasonable. The tenant appeals, claiming that the other units in the building offered to him by the resident manager were substandard and not comparable to his own; that seismic reinforcement of the building caused little disruption compared to the noise generated by his upstairs neighbors; and that quiet enjoyment of his unit is a contracted service for which he pays rent.

MSC: To deny the appeal. (Gruber/Justman: 5-0)

G. 45 Magnolia Ave.

S001-29A

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the landlords explain that they forgot the correct date of the hearing because of the serious illness of a family member.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/Lightner: 5-0)

H. 2109 Pine St.

S001-42R

The tenants' appeal was filed 30 days late because the tenants claim not to have received the decision for 30 days after it was mailed, at which time two of the three tenants in the unit were out of town.



MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 4-1; Gruber dissenting)

The landlord's petition for a rent increase based on the past rent history of a Newly Covered Unit under Proposition I was granted on remand. The tenants appeal, maintaining that the premises were not kept in good repair during a large portion of the period for which the rent increase was granted and the increase should not take effect until December 1, 1997; and that the large amount of the increase (15.2%) will cause a hardship for the tenants.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The Mediation Statistics for the month of November, 1997.

B. An article from the January 6, 1998 San Francisco Chronicle regarding fines in the amount of \$770,500.00 levied by a Superior Court Judge against two owners of a building in the Mission District with serious code violations.

#### VI. Director's Report

Executive Director Grubb informed the Board that, as of January 5, 1998, the office has had the services of four new hearing officers (Dinah Verby, Jeff Eckber, Mike Berg and Jean Turk) and one new counselor (Elizabeth Chang). All of the new additions to staff are currently undergoing training by their respective supervisors.

#### VII. Consideration of Allegations of Wrongful Eviction

A. 122 Baker St.

S003-17E

The tenant filed a Report of Alleged Wrongful Eviction because the owners of the building (a couple) served Notices to Vacate based on owner-occupancy to the tenants of two separate units in the same building. The landlord asserted that no construction work nor permits to merge the two units was necessary. The hearing officer found the eviction attempt wrongful in that Rules Section 12.14(c) specifies that a landlord can only have one principal place of residence, and recommended that a strongly worded letter be sent cautioning the landlords against proceeding with the eviction. Should they do so, the hearing officer suggested that the Board consider referring this matter to the District Attorney for criminal prosecution.

MSC: To accept the hearing officer's Recommendation with a change to read as follows (additions underlined): "For the reason





stated above, it is recommended that the Rent Board Commissioners send a strongly-worded warning to the landlords which cautions them against proceeding with any attempts to evict this tenant under the facts of this case or prior to receiving a permit to merge the units."  
(Marshall/Justman: 5-0)

B. 1133B Green St.

R007-43E

The tenants filed a Report of Alleged Wrongful Eviction because the owner of the property has served them with four Notices to Vacate; based either on owner-occupancy or that, as the "Master Tenant", the owner does not need a just cause reason to evict. The unit in question had previously been subdivided by the owner into two units. The hearing officer found, therefore, that the owner had no basis to evict because: he was already residing in an adjoining unit and could not occupy two units at once; and, since the units are separate, the parties are not "roommates" and he cannot evict without a just cause reason. The hearing officer also found strong evidence of a retaliatory motive on the part of the owner. Her recommendation was that a strong cautionary letter be sent and, if the eviction is pursued, that the case be referred to the District Attorney.

MSC: To accept the Recommendation of the hearing officer.  
(Marshall/Becker: 5-0)

#### VIII. Remarks from the Public

George Martland, the landlord involved in the case at 724 Leavenworth St., Apt. F (S001-27A), expressed his displeasure at the Board's denial of his appeal. He contended, among other things, that by denying his appeal, the Commissioners were encouraging the filing of false complaints. Mr. Martland's wife then stated her belief that none of the Commissioners had reviewed the evidence in the case and alleged that the Board was "encouraging vandalism." The Martlands informed the Board that they would be filing a Writ in Superior Court.

#### IX. Old Business

##### A. Proposed Rules and Regulations Section 12.21

The Commissioners discussed proposed new Rules Section 12.21, authored by Commissioner Becker and re-drafted by Deputy Director Wolf in accordance with concerns expressed by President Lightner. Commissioner Wasserman expressed her concerns that an addition to the Rules specifying that a tenant could not be evicted for failing to sign a lease or rental agreement with materially changed terms was unnecessary in light of Ordinance Section 37.9(a)(5), and the Board therefore voted as follows on Commissioner Becker's original proposal:



MSF: To adopt proposed new Rules and Regulations Section 12.21.  
(Becker/Marshall: 2-3; Gruber, Lightner, Wasserman  
dissenting)

B. Proposed Rules and Regulations Section 6.15

The Commissioners discussed proposed new Rules and Regulations Section 6.15, authored by Commissioner Marshall, which would: require disclosure and explanation by the landlord to the tenant of any absolute prohibition against subletting and assignment; explain what constitutes unreasonable withholding by the landlord of consent to a new roommate; and specify that failure by the landlord to consent to a replacement tenant in a unit could constitute a decrease in housing services. Commissioner Marshall reiterated that the proposed Rule, if adopted, would apply only to leases entered into after the effective date of the new Regulation. Several of the Commissioners offered suggestions for additions, deletions and alternative language, which Commissioner Marshall will attempt to incorporate in a revised draft for discussion at the meeting on February 3rd.

X. New Business

Executive Director Grubb and Deputy Director Wolf advised the Board that the office's workload is at an all-time high, with many staff members working mandatory overtime. In order to reduce the backlog of cases and continue to provide quality service to the public, Mr. Grubb believes that additional staffing and an incumbent increase in the rental unit fee will be necessary. This issue will be discussed further at the next Board meeting.

XI. Calendar Items

January 13, 1998 - NO MEETING

January 20, 1998

5 appeal considerations

Old Business:

- A. Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"
- B. Discussion of Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions
- C. Departmental Budget

XII. Adjournment

President Lightner adjourned the meeting at 9:15 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
January 20, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

A. 235 Greenwich St. S001-30A;  
S001-45R & -49R

The landlord and two tenants appeal the decision certifying capital improvement costs but determining rent overpayments.

B. 3720 Mission St. #1 S001-43R

The tenant appeals the dismissal of a petition alleging decreased housing services, alleging Non-Receipt of Notice of Hearing.

C. 1000 Howard St. #305 S001-44R

The tenant appeals the decision granting rent reductions due to decreased housing services, asserting that the amounts granted are inadequate.

D. 860 Arguello Blvd. S001-31A;  
S001-47 & -48R

The landlord appeals the decision certifying capital improvement costs, alleging improper application of the "6-Month Rule." The tenants in one unit appeal the dismissal of their petition alleging decreased housing services; and the decision certifying capital improvement costs, alleging Non-Receipt of Notice of Hearing.

*fac Caps 1st Posted 1/13/98*  
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E. 640 Clay St. #332

S001-46R

The tenant appeals the dismissal of a petition alleging decreased housing services, alleging Non-Receipt of Notice of Hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"

B. Discussion of Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions

C. Departmental Budget

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, January 20, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR



MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

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FEB 02 1998

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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Vice-President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Moore; Mosser;  
Wasserman.  
Commissioners not Present: Lightner; Marshall; Murphy.  
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:08 p.m.; Commissioner Justman arrived at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 6, 1998 with the following correction: Commissioner Justman went off the record at 8:40 p.m. rather than 5:40 p.m..  
(Becker/Bierly: 4-0)

IV. Consideration of Appeals

A. 235 Greenwich St. S001-30A; S001-45R & -49R

The landlord's petition for certification of capital improvement costs to the tenants in four units was granted, in part. In addition, the landlord was found liable to the tenant in one unit in the amount of \$2,857.78 due to rent overpayments, and notices of rent increase which failed to separate capital improvement costs from the portions of the rent increase reflecting annual and/or banked amounts were found to be defective. The landlord appeals the decision, claiming that: it is unfair to require the landlord to issue new notices of rent increase when the petition was filed in January, 1997, but the Decision of Hearing Officer was not issued until December, 1997; that the landlord did not unlawfully increase the tenants' rents but, rather, some of the tenants volitionally increased their own rents; and the hearing officer erred as to allowable banked amounts available to the landlord. Two tenants also appeal the decision. Both tenants maintain that their base rent amount is incorrect, as they increased their own rent; one tenant asserts her belief that the roof work did not constitute a



capital improvement; and one tenant raises several habitability problems that she has experienced and is currently experiencing regarding her unit and the common areas of the building.

MSC: To deny the landlord's and tenants' appeals except to remand the case for a new hearing on the issue of the rent histories of the tenants in all four units. (Bierly/Becker: 4-0)

B. 3720 Mission St. #1

S001-43R

The tenant's petition alleging substantial decreases in housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant alleges that her mail is being tampered with, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Bierly: 4-0)

C. 1000 Howard St. #305

S001-44R

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$20.00 per month due to cockroach infestation; \$10.00 per month due to a defective intercom/buzzer system; \$30.00 per month due to a lack of heat in the unit; and \$20.00 per month due to an unsecured mailbox. On appeal, the tenant claims that the rent reductions granted were not commensurate with the conditions for which they were granted; that the landlord knew upon the tenant's initial occupancy of the unit that the heat was not operational and, therefore, the rent reduction should go back to that date; and that the noise problem from an adjoining unit was proved and can be proven with additional evidence.

MSC: To accept the appeal and remand the case to the hearing officer on the record to re-examine the period of time for which a rent reduction was granted due to lack of heat in the unit. (Becker/Justman: 4-0)

D. 860 Arguello Blvd.

S001-31A; S001-47 & -48R

The landlord's petition for certification of capital improvement costs was granted, in part. The landlord appeals the decision, alleging that the hearing officer erred in her application of the "6-Month Rule" (Rules and Regulations Section 7.12(b)); and asserting that the costs of replacement windows in a unit not subject to the petition should be allocated to all units because they constituted a structural improvement and contributed to the weatherproofing of the building. The tenants in one unit appeal the decision certifying capital improvement costs, claiming that they failed to receive the Notice of Hearing. Additionally, they appeal the dismissal of their petition alleging substantially decreased housing services due to their failure to appear at the hearing after their request for postponement was denied.





MSC: To accept the landlord's appeal and remand the case to the hearing officer on the record for a correction, if necessary, regarding the application of the "6-Month Rule"; to deny the appeal as to all other issues. (Becker/Bierly: 3-1; Gruber dissenting)

MSC: To deny both tenant appeals. (Gruber/Justman: 4-0)

E. 640 Clay St. #332

S001-46R

The tenant's appeal was filed one day late because the tenant receives his mail at the office of a non-profit service provider, which was closed during the holidays.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Justman: 4-0)

The tenant's petition alleging a substantial decrease in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he failed to receive the Notice of Hearing because he had no access to his mail, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Gruber: 4-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners reviewed a letter to the landlord involved in the eviction case at 122 Baker Street (S003-17E), which was approved and signed by Vice-President Wasserman:

MSC: To approve the letter drafted by staff pursuant to the Recommendation of Hearing Officer in this matter.  
(Becker/Bierly: 4-0)

Regarding the eviction case at 1133B Green Street (R007-43E), staff reported that since the issuance of the hearing officer's Recommendation, the landlord has persisted in his attempts to evict the tenants. Therefore, relevant changes were suggested that will be added to the draft letter to the landlord, after which it will be signed by Vice-President Wasserman, and the following motion was passed:

MSC: To refer this matter to the District Attorney for investigation into possible criminal prosecution and to the Department of Building Inspection because of questions regarding the



sufficiency and appropriateness of the permit issued to the landlord. (Becker/Gruber: 4-0)

VI. Director's Report

Executive Director Grubb informed the Commissioners that a "Call-Back" feature has been added to the agency's counseling lines. After a caller has been on hold for approximately five minutes, they are given the option of leaving their phone number and a window of time during which they wish to be called back by a counselor.

VII. Old Business

Due to the absence of Commissioners Marshall and Lightner, the Board's discussion of proposed additions to the Rules and Regulations pertaining to changes in roommates and "Master Tenants" was continued to the February 3rd meeting. The Board's discussion of necessary amendments to the Rules and Regulations in order to implement amendments to the Rent Ordinance pertaining to Owner Move-In Evictions was continued until such time as the Board receives guidance on this issue from the Office of the City Attorney.

VIII. Remarks from the Public

Alfred Goodwin inquired as to whether the Rent Board's new database will be on the Internet when it comes on line. He also informed the Commissioners that there are capital improvement petitions that he filed eight or nine months ago that have yet to be scheduled for hearing.

IX. New Business

Executive Director Grubb went over the proposed departmental budget for fiscal year 1998/99, and explained proposed changes, including: upgrading the office's three clerical positions from 1424 and 1426 Clerk to that of 1446 Clerk; adding a Legal Secretary position; adding one permanent full-time hearing officer position and one temporary half-time position for six months; minor enhancements to the database; and a new copier. Mr. Grubb reported that, even with these additions, an increase in the rental unit fee will not be necessary. The Commissioners then passed the following motion:

MSC: To approve the proposed departmental budget for fiscal year 1998/99. (Justman/Gruber: 4-0)

X. Calendar Items

January 27, 1998 - NO MEETING

February 3, 1998

2 appeal considerations  
Old Business:



- A. Continued Discussion of Proposed Additions to the Rules and Regs. Pertaining to Changes in Roommates and "Master Tenants"
- B. Discussion of Necessary Amendments to the Rules and Regs. in Order to Implement Amendments to the Ordinance Pertaining to Owner Move-In Evictions

New Business: Calculation of Imputed Interest Rate

XI. Adjournment

Vice-President Wasserman adjourned the meeting at 7:40 p.m.



City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,

February 3, 1998

25 Van Ness Avenue, #70, Lower Level

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

FEB 03 1998

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 25 Ulloa St.

S001-32A

The landlord appeals the decision granting a rent reduction due to a substantial decrease in housing services. The service in question is the tenant's right to have a roommate.

B. 1080 Bush St. #600

S001-50R

The tenant appeals the dismissal of a petition alleging a substantial decrease in housing services due to his failure to appear at the properly noticed hearing.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

A. Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"

B. Discussion of Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions

- IV. Remarks from the Public (cont.)
- IX. New Business
- Calculation of Imputed Interest
- X. Calendar Items
- XI. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, February 3, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

FEB 12 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Lightner called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present:	Becker; Bierly; Gruber; Lightner; Moore; Wasserman.
Commissioners not Present:	Mosser.
Staff Present:	Grubb; Wolf.

Commissioner Justman appeared on the record at 6:08 p.m.;  
Commissioner Marshall arrived at 6:10 p.m.; and Commissioner Murphy at  
6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 20, 1998.  
(Gruber/Bierly: 5-0)

IV. Consideration of Appeals

A. 25 Ulloa St.

S001-32A

The tenants' petition alleging a substantial decrease in housing services due to the revocation of his right to have a third roommate in the unit was granted and the landlord was found liable to the tenant in the amount of \$4,400.00. On appeal, the landlord asserts that there was no reduction in a housing service and the tenants are therefore not entitled to a reduction in rent.

MSC: To deny the appeal. (Becker/Bierly: 5-0)

B. 1080 Bush St. #600

S001-50R

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he misread the hearing date listed on the Notice of Hearing, and thought that the hearing was scheduled for the following day. It was the consensus of the Commissioners to continue consideration of this case



to the next meeting in order for the Deputy Director to investigate whether the tenant appeared at the Rent Board office on the day he asserts he believed that the hearing would be held.

V. Communications

The Commissioners received a copy of a letter from Attorney Steven Rosenthal to a tenant regarding unilateral changes in the terms of the tenancy, stating his position that newly enacted Rules and Regulations Section 12.20 is ultra vires of the Rent Board's powers.

VI. Director's Report

A. Executive Director Grubb showed the Commissioners a copy of the "Customer Survey Response" form that the Rent Board will now be using to measure public satisfaction with the services provided by the agency.

B. Mr. Grubb informed the Board that there is some confusion surrounding the proper interpretation of Rules and Regulations Section 6.13, which reads as follows:

(a) No extra rent may be charged solely for the addition of a newborn child to an existing tenancy, regardless of the presence of a rental agreement or lease which specifically allows for a rent increase for additional tenants. Such provisions in written or oral rental agreements or leases are deemed to be contrary to public policy.

(b) Section 6.13(a) shall not be construed, by implication or otherwise, to establish a rule for cases involving other children, roommates or any other additional tenants.

Section 6.13 was adopted to make very clear that charging additional rent for newborn children was unlawful; the intent of subsection (b) was to clarify that specifying "newborns" in (a) did not mean that rent increases for other individuals in a unit were allowable. However, since subsection (b) can be read to imply that there are not Rules regarding rent increases for individuals other than newborns, this issue will be calendared for discussion and possible amendment at the next meeting.

VII. Old Business

A. Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"

The Board considered their discussion of proposed Rules and Regulations Section 6.15, drafted by Commissioner Marshall. As modified, proposed new Section 6.15 reads as follows:



## Section 6.15

### Subletting and Assignment

(a) For tenancies entered into after the date of adoption of this Section 6.15, where a lease or rental agreement contains an enforceable absolute prohibition against sublet or assignment, breach of such covenant may constitute a ground for termination of tenancy pursuant to Section 37.9(a)(2) only if such prohibition was adequately disclosed to and agreed to by the tenant at the commencement of the tenancy. For purposes of this subsection, adequate disclosure shall include, but not be limited to, satisfaction of the following requirement: (i) the prohibition against sublet or assignment is set forth in enlarged or boldface type in the lease or rental agreement and is separately initialed by both landlord and tenant; and/or (ii) the landlord has provided the tenant with a written explanation of the meaning of the absolute prohibition, either as part of the written lease or rental agreement, or in a separate writing.

(b) Where a lease or rental agreement, whether oral or written, permits sublet or assignment, or where an absolute prohibition against sublet or assignment has been waived, and the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (c) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

(c) Where a lease or rental agreement requires a landlord's consent to sublet or assignment, failure to obtain such consent shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the landlord has unreasonably withheld consent to such change; provided, however, that this subsection shall not apply to assignment of the entire tenancy or subletting of the entire unit for longer than \_\_\_\_\_\* months. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has met the following requirements:

\* number of months (between 1 and 12) to be determined by Board after public hearing.



- (1) The tenant has requested in writing the permission of the landlord to the sublease or assignment prior to the commencement of the proposed new tenant's or new subtenant's occupancy of the unit.
- (2) The proposed new tenant or new subtenant, if requested by the landlord, has completed the landlord's standard form application, or, in the event the landlord fails to provide an application or has no standard form application, the proposed new tenant or new subtenant has provided sufficient information to allow the landlord to conduct a typical background check, including credit information, income information, references, and background information.
- (3) The tenant has provided the landlord five (5) business days to process the proposed new tenant's or new subtenant's application.
- (4) The proposed new tenant or new subtenant meets the regular reasonable application standards of the landlord.
- (5) The proposed new tenant or new subtenant has agreed to sign and be bound by the then current rental agreement between the landlord and the tenant.
- (6) The tenant has not, without good cause, requested landlord consent to a new tenant or new subtenant more than ~~two times~~ one time per tenant residing in the unit during the previous 12 months.

(d) Where a lease or rental agreement, whether oral or written, permits sublet or assignment or subletting with landlord consent ~~and~~ or where an absolute prohibition against sublet or assignment has been waived, and the lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, failure of the landlord to consent to the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (c) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.





(e) nothing in this Section shall prevent the landlord from providing a ~~replacement~~ new tenant or new subtenant with written notice as provided under Section 6.14 that the replacement tenant is not an original tenant as defined in Section 6.14(a) and that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

(f) A landlord who is not an owner of record of the property and who resides in the same rental unit with his or her tenant (a "Master Tenant") may evict said tenant without just cause as required under Section 37.9(a) only if, prior to commencement of the tenancy, the Master Tenant informs the tenant in writing that the tenancy is not subject to the just cause provisions of Section 37.9. In addition, a Master Tenant shall disclose in writing to a tenant prior to commencement of the tenancy the amount of rent the Master Tenant is obligated to pay to the owner of the property.

MSC: To put proposed Rules and Regulations Section 6.15, as modified, out for Public Hearing. (Becker/Justman: 4-1; Gruber dissenting)

B. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions

The Director briefed the Board on possible approaches to the development of a method for determining who will qualify as "disabled" within the meaning of the recently enacted moratorium on owner move-in evictions of senior, disabled and catastrophically ill individuals. Mr. Grubb will provide the Commissioners with copies of disability regulations used in conjunction with the SSI/SSP Disability Programs.

VIII. New Business

Calculation of Imputed Interest

Commissioner Gruber brought up several problems with the way that the Board calculates the imputed interest rate, including: the methodology outlined in Rules Section 7.14(b) is not always followed, because the specified rates are not always available in the Wall Street Journal on the last business day of January; and the desirability of using a date more in line with the date used for calculation of the annual allowable increase. The Executive Director will investigate alternatives for discussion at the next Board meeting.

IX. Calendar Items

February 10, 1998 - NO MEETING



February 17, 1998

5 appeal considerations (1 cont. from 2/3/98)

Old Business:

- A. Proposed Rules Section 6.15: Scheduling of Public Hearing
- B. OMI Moratorium: Regulations
- C. Calculation of Imputed Interest
- D. Rules Section 6.13

X. Adjournment

President Lightner adjourned the meeting at 9:00 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,

February 17, 1998

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

SHARON K. WASSERMAN  
VICE-PRESIDENT

**AGENDA**

*For copy list posted 2/11/98*  
DOCUMENTS DEPT.

FEB 12 1998

SAN FRANCISCO  
PUBLIC LIBRARY

- 17/98
- I. Call to Order
  - LARRY BEACH BECKER
  - II. Roll Call
  - SHIRLEY A. BIERLY
  - DAVID GUSTAV GRUBER
  - III. Approval of the Minutes
  - ANTHONY J. JUSTMAN
  - POLLY MARSHALL
  - IV. Remarks from the Public
  - EVERETT Q. MOORE
  - NEVEO MOSSER
  - V. Consideration of Appeals
  - BARTHOLOMEW MURPHY

A. 1080 Bush St. #600 S001-50R  
(cont. from 2/3/98)

The tenant appeals the dismissal of a petition alleging substantial decreases in housing services.

B. 201 - 11th Ave. #5 S001-33A

The landlord appeals the decision granting a rent reduction due to a change in the building's key policy.

C. 184 Hartford St. S001-34A

The landlord appeals the decision granting rent reductions due to decreased housing services.

D. 1369 Hyde St. S001-35A

The landlord appeals the decision granting rent reductions due to decreased housing services.

E. 1399 - 30th Ave. #101 thru 304 S001-36A & S001-51R

The landlord appeals the decision certifying capital improvement costs on the issue of the imputed interest rate. One tenant appeals the decision on the grounds of financial hardship.

VI. Communications





VII. Director's Report

VIII. Old Business

- A. Proposed Rules and Regulations Section 6.15: Scheduling of Public Hearing
- B. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions
- C. Calculation of Imputed Interest
- D. Rules and Regulations Section 6.13

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, February 17, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

FEB 26 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

President Lightner called the meeting to order at 6:00 p.m.

II. Roll Call

Commissioners Present:	Becker; Bierly; Gruber; Justman; Lightner; Marshall; Moore; Mosser; Murphy.
Commissioners not Present:	Wasserman
Staff Present:	Grubb.

Commissioner Murphy went off the record at 8:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 3, 1998.  
(Becker/Justman: 5-0)

IV. Consideration of Appeals

A. 1080 Bush St. #600

S001-50R  
(cont. from 2/3/98)

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claimed to have misread the hearing date listed on the Notice of Hearing, and thought that the hearing was scheduled for the following day. At the meeting on February 3, 1998, the Commissioners continued consideration of this case in order for staff to investigate whether the tenant had appeared at the Rent Board office on the day he asserted that he believed the hearing was to be held. The tenant subsequently submitted a sworn statement that he had re-read the hearing notice on his way out of the house, and realized his mistake in time to avoid a trip to the Rent Board office for no reason.

MSC: To accept the appeal and remand the case for a new hearing.  
(Marshall/Becker: 5-0)



B. 201 - 11th Ave. #5

S001-33A

The tenant's petition alleging a substantial decrease in housing services was granted, and the landlord was found liable to the tenant in the amount of \$30.00 per month because the security system was changed and tenants are now only issued one key to the front door. On appeal, the landlord asserts that: there was no decrease in housing services because the landlord had no contractual obligation to provide the tenant with a duplicable key; and the hearing officer failed to consider the impact that the increased security had on all tenants in the building, including the tenant-petitioner, which should negate any claim of decreased housing services.

MSF: To accept the appeal and remand the case for a hearing to determine whether or not the owner made adequate efforts to accommodate the tenant's needs and to make a technical correction. (Marshall/Becker: 2-3; Gruber, Justman, Lightner dissenting)

MSC: To accept the appeal and remand the case for a hearing to determine whether or not the landlord made adequate efforts to accommodate the tenant's needs; to make a technical correction; and, to ascertain whether or not the landlord had knowingly permitted key duplication by the tenants. (Justman/Lightner: 4-1, Gruber dissenting)

C. 184 Hartford St.

S001-34A

The tenant's petition alleging the landlord's failure to repair and substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$930.00 due to lack of access to certain portions of the rental unit during a period of renovation; the condition of the bathroom floor; and a rear door that would not fully open. A rent increase was also deferred until certain code violations at the premises were remedied. On appeal, the landlord claims that the hearing officer erred regarding the dates that the bathroom floor was in disrepair, and disregarded her contention that the tenant and his friends caused the damage; that she was not notified as to the condition of the door until August. rather than February; and the hearing officer erred as to the dates that various phases of the construction ended and different facilities again became available to the tenant, which should be broken out with separate rent reductions for each.

MSC: To deny the appeal. (Becker/Justman: 3-2; Gruber, Lightner dissenting)

D. 1369 Hyde St.

S001-35A

Nineteen tenant petitions alleging substantial decreases in housing services were granted, in part, and the landlord was found liable for rent reductions to each tenant for a period of time during which one of the two elevators in the



building was non-functioning; and for the lack of a resident manager on the premises sufficiently often to accept deliveries on behalf of residents. The landlord appeals, maintaining that: the reliability of elevator service was not substantially reduced during the period that one of the two elevators was not operational, since the functioning elevator had an improved level of emergency response service; granting rent reductions for reduced services during periods of necessary repair creates a disincentive for landlords to maintain and upgrade their properties; and there was no evidence that there was a building-wide policy that managers would accept parcels for residents, rather, this was an occasional and infrequent favor provided by a former manager.

MSC: To recuse President Lightner from consideration of this case.  
(Gruber/Marshall: 5-0)

MSC: To deny the appeal on the issue of receiving parcels.  
(Marshall/Becker: 3-2; Gruber, Lightner dissenting)

The elevator issue was continued to the next meeting in order for staff to find out the status of current litigation in a similar matter.

E. 1399 - 30th Ave. #101 thru 304

S001-36A & S001-51R

The landlords' petition for certification of capital improvement costs to the tenants in nine units was granted. One tenant appeals the decision on the grounds of financial hardship. The landlords appeal the allowance of only the imputed interest rate on the capital improvement costs because the work was financed by a variable rate loan and no actual rate of interest was established. The landlords maintain that the interest rate on the permanent financing that was recently secured is a fixed rate loan at a rate of 10.25%.

MSC: To remand for consideration of the owner's fixed rate loan, which was recently obtained. A hearing will be held only if necessary. (Justman/Gruber: 5-0)

The tenant's hardship appeal was continued to the next meeting so that staff could inquire as to the number of tenants living in the unit and request that a hardship form be completed by the second occupant if there are, in fact, two tenants residing in the unit.

#### V. Communications

The Commissioners received a letter from tenants expressing their gratitude for services recently provided by the staff and Commission.

#### VI. Director's Report

The Director informed the Commissioners that their Form 700 Economic Interest Statement must be filed with the Ethics Commission directly and in duplicate by April 1, 1998 in order to avoid daily penalties.





## VII. Old Business

### A. Proposed Rules and Regulations Section 6.15: Scheduling of Public Hearing

The Commission agreed to schedule a public hearing on proposed amendments to Section 6.15 of the Rules and Regulations on either March 24<sup>th</sup> or March 31<sup>st</sup>, depending upon room availability.

### B. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions

Discussion of possible methods of implementing Owner Move-In (OMI) disability determinations included the two following proposals:

1. Have the tenant submit letters from two different doctors confirming that the individual cannot engage in any employment and therefore qualifies as a protected individual under the provisions of the OMI Moratorium. If the landlord disputes the doctors' determinations, then the matter would have to be adjudicated in an Unlawful Detainer action brought by the landlord.

2. The tenant would submit a letter from his doctor confirming that the individual cannot engage in any employment and therefore qualifies as a protected individual under the provisions of the OMI Moratorium. If the landlord disputes the doctor's assessment, then an expert in the subject matter would be hired by the Rent Board to make a determination on the matter.

Discussion of this issue will be continued at the next Board meeting.

### C. Calculation of Imputed Interest

The Director is still researching alternative methods for calculating imputed interest on capital improvement costs for possible amendments to the Rules and Regulations and will advise the Commission at a later meeting.

### D. Rules and Regulations Section 6.13

A proposal for amending Rules Section 6.13 to clarify its meaning was distributed for the Commissioners' consideration and discussion at the next meeting.

## VIII. Remarks from the Public

A tenant spoke about the negative impact of not being able to receive parcels at their building and regarding problems with card keys. A landlord stated his opinion that new Regulations that are being passed by the Rent Board and Board of Supervisors are having a negative impact on the housing market.





IX. Calendar Items

February 24, 1998 - NO MEETING

March 3, 1998

3 appeal considerations (2 cont. from 2/17/98)

Old Business:

- A. Necessary Amendments to the Rules and Regs. Pertaining to the  
Moratorium on Owner Move-In Evictions
- B. Rules and Regulations Section 6.13
- C. Variable Rate Interest Loans for Capital Improvement Work

March 10 & 17, 1998 - NO MEETINGS

March 24, 1998

Public Hearing on Proposed New Rules and Regulations Section 6.15

X. Adjournment

President Lightner adjourned the meeting at 8:47 p.m.



**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
March 3, 1998  
25 Van Ness Avenue, #70, Lower Level

**A G E N D A**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 1399 - 30th Ave. #101 S001-51R  
(cont. from 2/17/98)

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.
  - B. 1369 Hyde St. S001-35A  
(cont. from 2/17/98)

The landlord appeals the decision granting rent reductions due to decreased housing services.
  - C. 1280 Vallejo St. S001-37A

The landlord appeals the decision granting rent reductions based on decreased housing services based on the revocation of the right to have a roommate.
- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - A. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions
  - B. Rules and Regulations Section 6.13
- IV. Remarks from the Public (cont.)
- IX. New Business
  - Variable Rate Interest Loans for Capital Improvement Work
- X. Calendar Items
- XI. Adjournment



**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, March 3, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

Vice-President Wasserman called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present:	Becker; Bierly; Gruber; Justman; Moore; Mosser; Wasserman.
Commissioners not Present:	Lightner; Marshall.
Staff Present:	Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 17, 1998.  
(Becker/Justman: 4-0)

IV. Consideration of Appeals

A. 1369 Hyde St.

S001-35A  
(cont. from 2/17/98)

Nineteen tenant petitions alleging substantial decreases in housing services were granted, in part, and the landlord was found liable for rent reductions to each tenant for a period of time during which one of the two elevators in the building was non-functioning; and for the lack of a resident manager on the premises sufficiently often to accept deliveries on behalf of residents. The landlord appealed, maintaining that: the reliability of elevator service was not substantially reduced during the period that one of the two elevators was not operational, since the functioning elevator had an improved level of emergency response service; granting rent reductions for reduced services during periods when necessary repairs were being performed creates a disincentive for landlords to maintain and upgrade their properties; and there was no evidence that there was a building-wide policy that managers would accept parcels for residents, rather, this was an occasional and infrequent favor provided by a former manager.



At their meeting on February 17th, the Commissioners voted to deny the appeal on the issue of the receipt of parcels but continued consideration of the elevator issue in order for staff to report on the status of current litigation in a similar matter. After hearing the briefing schedule for the current court case involving the Golden Gateway complex (Superior Court Case No. 982216), it was the consensus of the Commissioners to indefinitely continue consideration of the issue of decreased elevator service until a decision is reached on a similar issue raised in Golden Gateway.

B. 1399 - 30th Ave. #101

S001-51R  
(cont. from 2/17/98)

The landlords' petition for certification of capital improvement costs to the tenants in nine units was granted. One tenant appealed the decision on the basis of financial hardship. Consideration of this appeal was continued from the meeting on February 17th in order for staff to inquire as to the number of tenants residing in the unit and to have any additional occupants fill out the requisite Hardship Application.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Bierly: 4-0)

C. 1280 Vallejo St.

S001-37A

The tenants' petition alleging a substantial decrease in housing services due to the landlord's refusal to allow a replacement roommate was granted, and the landlord was found liable to the tenants in the amount of \$3,000.00. On appeal, the landlord asserts that the fact that the rental agreement prohibited subletting but also contained language pertaining to procedures for replacing roommates under Rules Section 6.14 was not confusing to the tenants but, rather, they only raised this contention after being questioned by the hearing officer; the contract entered into by the parties is clear and unambiguous as to its prohibitions against sublet and assignment, and these provisions were never modified or waived; interpretation of the contract must be limited to its language, which is specific as to the prohibition against subletting; and the right to sublet is not a housing service as defined by the Ordinance and, therefore, revocation of that right does not warrant a rent reduction.

Since the landlord's attorney submitted a 6-page brief on March 2nd which the Commissioners did not receive prior to the meeting, it was the consensus of the Board to continue consideration of this matter until the April 7th meeting. However, staff was instructed to admonish the attorney that, in the future, such late submissions will not be allowed nor considered.

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:





A. Letters from the tenant and the landlord's attorney concerning the eviction case at 1133 Green Street (R007-43E), which was referred by the Board to the Office of the District Attorney and Department of Building Inspection for investigation.

B. A Memorandum from Executive Director Grubb to Interested Parties on behalf of the Rent Board, Department of Building Inspection and Office of the City Attorney asking for recommendations regarding the use of card key security systems in response to a resolution introduced by Supervisor Ammiano.

VI. Director's Report

Mr. Grubb reminded the Commissioners that their Form 700 Economic Interest Statements must be filed with the Ethics Commission by April 1st. He also let them know that the Rent Board office will not be fully operational during the week of March 9th due to renovation.

VII. Old Business

A. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions

Staff informed the Board that the Show Cause hearing on the legality of the recently enacted Moratorium on owner move-in evictions of certain protected classes of tenants has been continued to March 25th. Consideration of possible methods of implementing disability determinations pursuant to the legislation was therefore continued.

B. Rules and Regulations Section 6.13

The Board discussed a staff proposal to amend the language of Rules Section 6.13 to make it clear that rent increases for newborns *and any other additional occupants in a unit* are unlawful. The proposed amendment is for clarification purposes only, and does not constitute a substantive change in the law.

MSC: To put proposed clarifying amendments to Rules and Regulations Section 6.13 out for Public Hearing.  
(Becker/Justman: 5-0)

VIII. New Business

Variable Rate Interest Loans for Capital Improvement Work

The Board discussed the policy considerations that come into play when capital improvements are financed with a variable, as opposed to fixed, rate loan. The consensus of the Board was that the landlord should use the rate in effect at the time of filing the petition for certification. However, present policy is that the fluctuations of a variable rate loan result in no actual interest rate being



established, and the landlord is held to the imputed interest rate. Since that rate is often less than the lowest, teaser rate on the variable, there can be an inequitable result. Several alternative methodologies were proposed, and Commissioner Murphy volunteered to draft a proposed regulation using the prime rate for these kinds of cases.

IX. Calendar Items

March 10 & 17, 1998 - NO MEETINGS

March 24, 1998

6:00 Public Hearing: Proposed New Rules and Regulations Section 6.15 and Clarifying Amendments to Rules and Regulations Section 6.13

March 31, 1998 - NO MEETING

X. Adjournment

Vice-President Wasserman adjourned the meeting at 7:20 p.m.





MAR 09 1998

SAN FRANCISCO  
PUBLIC LIBRARYWILLIE L. BROWN, JR.  
MAYORMERRIE T. LIGHTNER  
PRESIDENT

March 5, 1998

JOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENTNOTICE OF PUBLIC HEARING

DATE: March 24, 1998

TIME: 6:00 P.M.

PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)  
SUITE 330, LOWER LEVEL (Note: Different  
location for this meeting only)  
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE WHICH AFFECTS TWO DIFFERENT SECTIONS. THE FIRST PROPOSED AMENDMENT IS TO SECTION 6.13 AND IS INTENDED TO CLARIFY EXISTING RENT BOARD POLICY CONCERNING THE PROHIBITION AGAINST CHARGING FOR ADDITIONAL TENANTS. SUBSECTION (a) IS SLIGHTLY AMENDED AND SUBSECTION B IS BEING DELETED IN ORDER TO ELIMINATE MISLEADING LANGUAGE THAT MIGHT HAVE BEEN CONSTRUED TO PERMIT CHARGING OF ADDITIONAL RENT FOR ADDITIONAL TENANTS TO AN EXISTING LEASE OR RENTAL AGREEMENT. BOTH THE CURRENT SECTION AND THE PROPOSED SECTION ARE PROVIDED HERE FOR COMPARISON PURPOSES. THIS AMENDMENT IS CONSIDERED BY THE COMMISSION TO BE A NON-SUBSTANTIVE AMENDMENT FOR CLARIFICATION PURPOSES ONLY AND DOES NOT ALTER ANY EXISTING POLICY OF THE RENT BOARD.

THE SECOND PROPOSED AMENDMENT IS THE ADDITION OF SECTION 6.15. THIS SECTION IS ENTIRELY NEW AND IS INTENDED TO CLARIFY ISSUES CONCERNING SUBLETTING AND ASSIGNMENTS AND THE RIGHTS AND RESPONSIBILITIES OF BOTH TENANTS AND LANDLORDS. IT ALSO REQUIRES THAT A MASTER TENANT DIVULGE THE CURRENT RENT WHEN NEW SUBTENANTS ARE BROUGHT IN.

OVER, PLEASE



PAGE 2

**PUBLIC HEARING NOTICE**

**SECTION 6.13 & 6.15**

You may either comment at the public hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the department no later than **5 p.m. on Wednesday, March 18, 1998**, so that the Commissioners can be mailed your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit **12 copies** of your comments in order facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.





**CURRENT TEXT OF 6.13 READS AS FOLLOWS:**

**Section 6.13 Agreements to Pay Additional Rent for Newborn**

**Children**

(Adopted April 8, 1986)

(a) No extra rent may be charged solely for the addition of a newborn child to an existing tenancy, regardless of the presence of a rental agreement or lease which specifically allows for a rent increase for additional tenants. Such provisions in written or oral rental agreements or leases are deemed to be contrary to public policy.

(b) Section 6.13(a) shall not be construed, by implication or otherwise, to establish a rule for cases involving other children, roommates or any other additional tenants.

**PROPOSED TEXT FOR 6.13 WOULD READ AS FOLLOWS:**

**Section 6.13 Agreements to Pay Additional Rent for Newborn**

**Children**

(Adopted April 8, 1986)

(a) No extra rent may be charged solely for an additional occupant to an existing tenancy (including a newborn child), regardless of the presence of a rental agreement or lease which specifically allows for a rent increase for additional tenants. Such provisions in written or oral rental agreements or leases are deemed to be contrary to public policy.

**Proposed New Regulation 6.15 (Note: This Section is entirely new)**

**Subletting and Assignment**

(a) For tenancies entered into after the date of adoption of this Section 6.15, where a lease or rental agreement contains an enforceable absolute prohibition against sublet or assignment, breach of such covenant may constitute a ground for termination of tenancy



22  
1 pursuant to Section 37.9(a)(2) only if such prohibition was adequately disclosed to and  
2 agreed to by the tenant at the commencement of the tenancy. For purposes of this  
3 subsection, adequate disclosure shall include, but not be limited to, satisfaction of the  
4 following requirement: (i) the prohibition against sublet or assignment is set forth in  
5 enlarged or boldface type in the lease or rental agreement and is separately initialed by  
6 both landlord and tenant; and/or (ii) the landlord has provided the tenant with a written  
7 explanation of the meaning of the absolute prohibition, either as part of the written lease or  
8 rental agreement, or in a separate writing.

9 (b) Where a lease or rental agreement, whether oral or written, permits sublet or  
10 assignment, or where an absolute prohibition against sublet or assignment has been  
11 waived, and the lease or rental agreement specifies a number of tenants to reside in a  
12 unit, or where the open and established behavior of the landlord and tenants has  
13 established that the tenancy includes more than one tenant, the replacement of one or  
14 more of the tenants by an equal number of tenants, subject to subsection (c) below, shall  
15 not constitute a breach of the lease or rental agreement for purposes of termination of  
16 tenancy under Section 37.9(a)(2) of the Ordinance.

17 (c) Where a lease or rental agreement requires a landlord's consent to sublet or  
18 assignment, failure to obtain such consent shall not constitute a breach of the lease or  
19 rental agreement for purposes of eviction under Section 37.9(a)(2), where the landlord  
20 has unreasonably withheld consent to such change; provided, however, that this  
21 subsection shall not apply to assignment of the entire tenancy or subletting of the entire  
22 unit for longer than \_\_\_\_\_\* months. Withholding of consent by the landlord shall be  
23 deemed to be unreasonable if the tenant has met the following requirements:

24 (1) The tenant has requested in writing the permission of the landlord to the sublease or  
25 assignment prior to the commencement of the proposed new tenant's or new subtenant's  
26 occupancy of the unit.

27 (2) The proposed new tenant or new subtenant, if requested by the

28 \* number of months (between 1 and 12) to be determined by Board after public  
hearing.



2  
1 landlord, has completed the landlord's standard form application, or, in  
the event the landlord fails to provide an application or has no standard form  
application, the proposed new tenant or new subtenant has provided sufficient  
2 information to allow the landlord to conduct a typical background check, including credit  
information, income information, references, and background information.

3 (3) The tenant has provided the landlord five (5) business days to process the  
proposed new tenant's or new subtenant's application.

4 (4) The proposed new tenant or new subtenant meets the regular reasonable application  
standards of the landlord.

5 (5) The proposed new tenant or new subtenant has agreed to sign and be bound by the  
then current rental agreement between the landlord and the tenant.

6 (6) The tenant has not, without good cause, requested landlord consent to a new tenant  
or new subtenant more than one time per tenant residing in the unit during the previous 12  
7 months.

8  
9 (d) Where a lease or rental agreement, whether oral or written, permits assignment  
with landlord consent, or where an absolute prohibition against sublet or assignment has  
10 been waived, and the lease or rental agreement specifies the number of tenants to reside  
11 in a unit, or where the open and established behavior of the landlord and tenants has  
12 established that the tenancy includes more than one tenant, failure of the landlord to  
13 consent to the replacement of one or more of the tenants by an equal number of tenants,  
14 subject to subsection (c) above, may constitute a decrease in housing services pursuant  
15 to Section 10.10 of these Regulations.

16  
17 (e) nothing in this Section shall prevent the landlord from providing a replacement new  
18 tenant or new subtenant with written notice as provided under Section 6.14 that the  
19 tenant is not an original tenant as defined in Section 6.14(a) and that when the last of the  
20 tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for  
21 purposes of determining the rent under the Rent Ordinance.

22 (f) A landlord who is not an owner of record of the property and who resides in the  
23 same rental unit with his or her tenant (a "Master Tenant") may evict said tenant without  
24 just cause as required under Section 37.9(a) only if, prior to commencement of the  
25 tenancy, the Master Tenant informs the tenant in writing that the tenancy is not subject to  
26 the just cause provisions of Section 37.9. In addition, a Master Tenant shall disclose in  
27  
28



22  
1 writing to a tenant prior to commencement of the tenancy the amount of rent the Master  
2 Tenant is obligated to pay to the owner of the property.

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26 jpg/rules/regs/6.13&6.15/3/24/98

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MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, March 24, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, 3rd Floor Conference Room

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

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I. Call to Order

LARRY BEACH BECKER President Lightner called the meeting to order at 6:05 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY J. JUSTMAN

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Marshall;  
Moore; Wasserman.

Commissioners not Present:

Justman.

Staff Present:

Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:07 p.m.; Commissioner  
Mosser arrived at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 3, 1998.  
(Becker/Gruber: 5-0)

IV. Public Hearing

A Public Hearing on amendments to Rules and Regulations Section 6.13, to  
clarify the meaning of that Section; and proposed new Rules and Regulations  
Section 6.15 pertaining to replacement roommates, prohibitions against  
subletting and "Master Tenants" commenced at 6:19 p.m. and concluded at 7:03  
p.m. The following individuals testified:

1. Robert Pender of the Tenants' Network spoke in support of both  
proposals, because he is "in favor of children" and, "the more written notice, the  
better."

2. Landlord Allen Chase felt that Section 6.13 should apply only to  
replacement tenants, and not additional occupants; that "6.14 occupants" are  
not tenants; and that landlords should be allowed to charge additional rent or  
they will not grant permission for additional occupants. In his opinion, the rest of  
the proposed changes were reasonable.



3. Tenant Amy Swanson informed the Board that her landlord is currently refusing consent for a replacement roommate, and that she didn't realize that replacing a roommate constituted subletting.

4. Brad Hune, a counselor for the Housing Rights Committee, told the Board that they have seen a huge increase in subletting issues among the tenants who avail themselves of their services and expressed his support for the proposed Rules changes.

5. Landlord Jim Patiris said that landlords should be able to control who lives in their buildings; that there are increased costs associated with additional occupants; and that an operating and maintenance expense increase goes to all the tenants in the building, which is unfair.

6. D. Michael asked what happened to keeping agreements and stated his opinion that any favor now becomes a "housing service." He is not a property owner.

7. Landlord Andrew Long told the Board that most "Master Tenants" don't realize that they are, indeed, "Master Tenants"; that the proposals entrench the right to "musical roommates"; and that this will lead to landlords putting absolute prohibitions against subletting in their rental agreements. He reminded the Commissioners that they are not the "Contract Board".

8. Landlord George A. Schiessl said that "kids are expensive!" and asked if a landlord could "throw someone else out" when there is the maximum number of tenants in a unit and a baby is born; he also felt that, if tenants don't read the rental contract, "it's their problem."

9. Rob Huddleston from the Professional Property Management Association spoke in favor of Section 6.15 because it is "fair".

10. Landlord J. B. Alegiani opined that all future leases will prohibit subletting, which will not serve tenants well, nor will the proposal help people with existing leases.

11. Landlord Peter Lewis stated that the proposed changes just make it so that landlords won't rent to roommates, and that the Board is impeding landlords' ability to control their tenant profile.

12. Tenant Lee Heller stated her belief that housing is a public, and not private, concern; said that there is no rent control without vacancy control; and maintained that the City has no commitment to building low-income housing.

13. Tenant Fergal Moloney testified that without being allowed a replacement roommate, she will be paying extra rent for wasted space.

14. Tenant Michelle Cheiken told the Board that she recently settled an eviction lawsuit with her landlord based on the fact that there had been no



written consent to her having moved into the unit; she believes that the landlords are currently refusing to effectuate repairs so that she will vacate the unit.

15. Anna Stern said that it is unfair that tenants' rents are reduced when housing services are decreased, but rent increases are disallowed although costs go up when there are additional tenants in a unit. Additionally, since landlords are help responsible for the security of the premises, they should have control over who lives in their building(s).

16. Landlord Donna Robson explained a problem she is having renovating a unit with a revolving tenancy

17. Landlord John O'Carroll spoke to what he sees as fairness issues, including the fact that additional occupants mean more noise, which affects other tenants in the building.

18. Landlord Al Goodwin stated his beliefs that the vast majority of landlords are unsophisticated, and use standard form leases which are inapplicable to rent control; that 99% of parties don't understand 95% of what's in their lease; and that, if the proposed Rules changes are passed, tenants will just be evicted for subletting.

19. Janan New, Director of the S. F. Apartment Association, asked questions regarding a Master Tenant's ability to evict a subtenant without the involvement of the owner of the property.

20. A landlord remarked that the "ratcheting up" of the Regulations will drive out owner-occupants, which is not good for the City.

After discussion, the Commissioners made and passed the following motions:

MSC: To adopt revised Rules and Regulations Section 6.13.  
(Becker/Wasserman: 5-0)

Rules and Regulations Section 6.13 has been amended for clarification purposes only, and now reads as follows:

**Section 6.13 Prohibition Against Agreements to Pay  
Additional Rent for Additional Occupants**

(Adopted April 8, 1986; Amended for Clarification March 24, 1998)

No extra rent may be charged solely for an additional occupant to an existing tenancy (including a newborn child), regardless of the presence of a rental agreement or lease which specifically allows for a rent increase for additional tenants. Such provisions in written or oral rental agreements or leases are deemed to be contrary to public policy.

MSC: To adopt proposed new Rules and Regulations Section 6.15.  
(Wasserman/Gruber: 4-1; Lightner dissenting)





New Rules and Regulations Section 6.15 reads as follows below:

**Section 6.15 Subletting and Assignment**

(Effective March 24, 1998, except paragraphs (a) and (f) which are effective May 25, 1998)

(a) For agreements entered into on or after May 25, 1998, for purposes of this subsection (a), where a lease or rental agreement contains an enforceable absolute prohibition against sublet or assignment, breach of such covenant may constitute a ground for termination of tenancy pursuant to Section 37.9(a)(2) only if such prohibition was adequately disclosed to and agreed to by the tenant at the commencement of the tenancy. For purposes of this subsection, adequate disclosure shall include satisfaction of one of the following requirements:

(1) the prohibition against sublet or assignment is set forth in enlarged or boldface type in the lease or rental agreement and is separately initialed by the tenant; or

(2) the landlord has provided the tenant with a written explanation of the meaning of the absolute prohibition, either as part of the written lease or rental agreement, or in a separate writing.

(b) If the lease or rental agreement specifies a number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, and, where a lease or rental agreement, whether oral or written, permits sublet or assignment or requires a landlord's consent to sublet or assignment, or where an absolute prohibition against sublet or assignment has been waived, then the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (c) below, shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

(c) (1) If a lease or rental agreement requires a landlord's consent to sublet or assignment, the tenant's inability to obtain such consent shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the landlord has unreasonably withheld consent to such change. Withholding of consent by the landlord shall be deemed to be unreasonable if the tenant has met the following requirements:

(i) The tenant has requested in writing the permission of the landlord to the sublease or assignment prior to the commencement of the proposed new tenant's or new subtenant's occupancy of the unit;

(ii) The proposed new tenant or new subtenant, if requested by the landlord, has completed the landlord's standard form application, or, in the event the landlord fails to provide an application or has no standard form application, the proposed new tenant or new subtenant has, upon request, provided sufficient information to allow the landlord to conduct a typical background check, including credit information, income information, references, and background information;

(iii) The tenant has provided the landlord five (5) business days to process the proposed new tenant's or new subtenant's application;

(iv) The proposed new tenant or new subtenant meets the regular reasonable application standards of the landlord;

(v) The proposed new tenant or new subtenant has agreed to sign and be bound by the current rental agreement between the landlord and the tenant;

(vi) The tenant has not, without good cause, requested landlord consent to a new tenant or new subtenant more than one time per existing tenant residing in the unit during the previous 12 months;

(vii) The tenant is requesting replacement of a departing tenant or tenants with an equal number of new tenants.

(2) This subsection (C)(1) shall not apply to assignment of the entire tenancy or subletting of the entire unit.





(d) Where a lease or rental agreement, whether oral or written, permits subletting or assignment with landlord consent, or where an absolute prohibition against sublet or assignment is waived, and the lease or rental agreement specifies the number of tenants to reside in a unit, or where the open and established behavior of the landlord and tenants has established that the tenancy includes more than one tenant, failure of the landlord to consent to the replacement of one or more of the tenants by an equal number of tenants, subject to subsection (c)(1) above, may constitute a decrease in housing services pursuant to Section 10.10 of these Regulations.

(e) Nothing in this Section shall prevent the landlord from providing a replacement new tenant or new subtenant with written notice as provided under Section 6.14 that the tenant is not an original tenant as defined in Section 6.14(a) and that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.

(f) (1) For any tenancy commencing on or after May 25, 1998, a landlord who is not an owner of record of the property and who resides in the same rental unit with his or her tenant (a "Master Tenant") may evict said tenant without just cause as required under Section 37.9(a) only if, prior to commencement of the tenancy, the Master Tenant informs the tenant in writing that the tenancy is not subject to the just cause provisions of Section 37.9. A landlord who is an owner of record of the property and who resides in the same rental unit with his or her tenant is not subject to this additional disclosure requirement.

(2) In addition, for any tenancy commencing on or after May 25, 1998, a Master Tenant shall disclose in writing to a tenant prior to commencement of the tenancy the amount of rent the Master Tenant is obligated to pay to the owner of the property.

#### V. Communications

The Board received correspondence regarding the proposed Rules and Regulations changes which were the subject of the Public Hearing and a letter from Allen Garfield, Esq., suggesting that the OMI Moratorium be amended so that elderly, disabled or catastrophically ill landlords be allowed to evict tenants in the above-mentioned "protected" categories.

#### VI. Director's Report

Executive Director Grubb reported as follows:

A. The Commissioners' Form 700 Economic Interest Statements must be filed with the Ethics Commission by April 1, 1998 in order to avoid penalties.

B. The Commissioners were all invited to attend a party at the Rent Board office on Wednesday, March 25th to celebrate the end of renovation and view the newly refurbished space.

C. It has been more than one year since the Board elected officers; nominations will be taken at the meeting on April 7th.



VII. Remarks from the Public

A. Landlord Allen Chase asked what happens if a landlord doesn't know the number of tenants on the premises, and expressed concerns regarding bad short-term tenants.

B. Landlord Katherine Nash also maintained that, if a landlord doesn't live on the premises, s/he won't know who's living there.

C. A landlord expressed his frustration that tenants "don't follow application procedures", and just move in without asking.

VIII. Calendar Items

March 31, 1998 - NO MEETING

April 7, 1998

6 appeal considerations (1 cont. from 3/3/98)

Old Business:

A. OMI Moratorium

B. Calculation of Imputed Interest on Capital Improvement Costs

C. Variable Rate Interest Loans for Capital Improvement Work

New Business:

A. Request for Amicus: (S003-17E; 122 Baker St. #2)

B. Election of Officers

IX. Adjournment

President Lightner adjourned the meeting at 10:00 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,

April 7, 1998

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

A. 1280 Vallejo St. S001-37A  
(cont. from 3/3/98)

The landlord appeals the decision granting rent reductions due to a decrease in housing services, specifically, the right to have a roommate.

B. 1406 Pacific Ave., Apt. 4 S001-37A

The tenant appeals the remand decision granting a rent increase based on comparable rents.

C. 556 Jones St. #201 S001-38A

The landlord appeals the decision granting rent reductions due to decreased housing services, alleging Non-Receipt of Notice of Hearing.

D. 505 - 26th Ave. #1 S001-55R & S001-39A

The landlord appeals the remand decision on the issue of calculation of rent overpayments; the tenant appeals the denial of his claim of decreased housing services.

E. 1464 - 45th Ave. S001-53R

The tenant appeals the remand decision partially granting claims of decreased housing services.

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F. 1770 Broadway #305 & 101

S001-54R & -56R

Two tenants appeal the decision granting certification of capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

- A. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions
- B. Calculation of Imputed Interest on Capital Improvement Costs
- C. Variable Rate Interest Loans for Capital Improvement Work

IV. Remarks from the Public (cont.)

IX. New Business

- A. Request for Amicus: 122 Baker St. #2 (S003-17E)
- B. Election of Officers

X. Calendar Items

XI. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,  
WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, April 7, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

Vice-President Wasserman called the meeting to order at 6:11 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Justman; Marshall; Moore;  
Mosser; Murphy; Wasserman.  
Commissioners not Present: Bierly; Lightner.  
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of March 24, 1998.  
(Moore/Marshall: 5-0)

IV. Remarks from the Public

Beverlyn Jackson, the tenant-appellant at 1464 - 45th Ave. (S001-53R) inquired as to whether she could receive a statement from the Board affirming that her landlord owes her rent.

V. New Business

A. Request for Amicus: 122 Baker St. #2 (S003-17E)  
(Montano v. Marquez and Vaughn;  
Municipal Court Case No. 151650)

Timothy Lee, Esq., from the Tenderloin Housing Clinic, appeared on behalf of his clients, the defendants in the above-captioned case. The Rent Board Commissioners had, at a previous meeting, voted unanimously to accept the hearing officer's Recommendation that the landlords' attempt to evict tenants in two physically distinct units for owner-occupancy was in violation of the Rent Ordinance. However, the Municipal Court Law and Motion judge declined to follow the Board's interpretation or dismiss the case absent a higher court ruling on the issue. Mr. Lee is therefore filing a motion for peremptory writ of mandate asking the Superior Court to provide such a ruling. Since the issue involves the

proper deference that should be given to the Board's interpretations, he requested that the Board file a short amicus brief in the case.

MSC: To recuse Commissioner Murphy from consideration of this matter. (Gruber/Moore: 5-0)

MSC: To request that the Office of the City Attorney file a short Amicus Brief in the above-referenced case, focusing on the deference that should be paid to the administrative agency's interpretation of the applicable law, rather than the merits of the instant case. (Marshall/Justman: 5-0)

## VI. Consideration of Appeals

### A. 1280 Vallejo St.

S001-37A (cont. from 3/3/98)

The tenants' petition alleging a substantial decrease in housing services due to the landlord's refusal to allow a replacement roommate was granted, and the landlord was found liable to the tenants in the amount of \$3,000.00. On appeal, the landlord asserts that the fact that the rental agreement prohibited subletting but also contained language pertaining to procedures for replacing roommates under Rules Section 6.14 was not confusing to the tenants but, rather, they only raised this contention after being questioned by the hearing officer; the contract entered into by the parties is clear and unambiguous as to its prohibitions against sublet and assignment, and these provisions were never modified or waived; interpretation of the contract must be limited to its language, which is specific as to the prohibition against subletting; and the right to sublet is not a housing service as defined by the Ordinance and, therefore, revocation of that right does not warrant a rent reduction.

Since the landlord's attorney submitted a 6-page brief on March 2nd which the Commissioners did not receive prior to the meeting, it was the consensus of the Board to continue consideration of this matter until the April 7th meeting. However, staff was instructed to admonish the attorney that, in the future, such late submissions will not be allowed nor considered.

A few days prior to the Board's rescheduled consideration of this matter, a submission was received from the landlord's attorney asserting that the tenants currently had a third roommate on the premises, that this had been the case at the time of the hearing, and they therefore had suffered no decrease in housing services. However, there was no indication that counsel had provided a copy of the letter to the tenant-appellees. Therefore, the Board again continued this matter, in order for staff to contact the tenants and provide them with an opportunity to respond to these recent allegations.

### B. 1406 Pacific Ave., Apt. 4

S001-52R

The landlord's petition for a rent increase based on comparable rents was denied. The hearing officer found that the landlord had established the

requisite extraordinary circumstances to justify a rent increase based on comparables, and that the rent for the subject unit was set low and kept low due to a special relationship and fraud. However, the landlord failed to meet his burden of proving what a comparable rent for the unit should be, instead providing somewhat unreliable evidence as to "market" rent for the unit. Upon appeal by the landlord, the case was remanded for another hearing on the issue of a comparable rent for the unit, and both parties were instructed to emphasize the length of comparable tenancies. In the Decision of Hearing Officer on Remand, the landlord was granted a rent increase from \$250.00 to \$781.70 per month. The tenant appeals the remand decision, asserting that the units submitted by the landlord were not comparable to hers; that the owner purchased the building knowing what the rents were; and that she is no longer able to afford legal counsel.

MSC: To deny the appeal. (Marshall/Mosser: 5-0)

C. 556 Jones St. #201

S001-38A

The tenant's petition alleging substantially decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$640.00 due to habitability problems in the subject unit. On appeal, the landlord maintains that he failed to receive the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Gruber/Mosser: 5-0)

D. 505 - 26th Ave. #1

S001-55R; S001-39A

The tenant's appeal was filed 17 days late because he claims he did not know whether or not he needed to file an appeal until he received a copy of the appeal the landlord had filed.

MSC: To find no good cause for the late filing of the tenant's appeal.  
(Gruber/Murphy: 5-0)

The landlord's petition for rent increases based on increased operating expenses was granted. On appeal, the tenant disputed the base rent amount authorized in the decision because the figure provided by the landlord allegedly included a prior capital improvement passthrough. The case was remanded for clarification of the proper base rent and consolidated with another petition filed by the tenant alleging decreased housing services. The landlord appeals the remand decision, claiming that the hearing officer erred in her calculation of rent overpayments. The tenant also appeals the decision, claiming that the landlord used to pay for garbage services and has now transferred this cost to the tenants.

MSC: To deny the landlord's appeal but instruct the parties that, if amounts paid subsequent to the hearing in this matter are

different than the amounts stated in the Decision, then the landlord and tenant shall make the appropriate adjustment to the amount of overpayment owing from the landlord to the tenant. (Marshall/Moore: 5-0)

E. 1464 - 45th Ave.

S001-53R

The portions of the tenant's petition alleging unlawful increases in rent and the landlord's failure to make requested repairs were denied. The landlord was, however, found liable to the tenant in the amount of \$1,639.50 due to substantial decreases in housing services. On appeal by the landlord, the case was remanded only on the issue of the exhaust fan in the kitchen. In the Decision on Remand, the hearing officer found that, since there had never been an exhaust fan, no rent reduction was warranted for this issue. The tenant appeals the remand decision, asserting that the landlord denied entrance to an electrician called out to remedy a potentially hazardous electrical problem.

MSC: To deny the appeal. (Justman/Gruber: 5-0)

F. 1770 Broadway #305 & 101

S001-54R & -56R

The tenant in unit #101 filed an appeal six days late because she was on vacation when the decision was mailed out.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Moore: 5-0)

The landlord's petition for certification of capital improvement costs to the tenants in twenty-nine units was granted, in part. The tenants in two units appeal the decision. The tenant in unit #101 asserts that the costs for the work were excessive, and that the services of an independent estimator should have been used. The tenant in unit #305 claims that from the time she moved into the building, water leaked into her unit, causing considerable damage. The tenant feels that she should not have to pay the increase because, if the roof repair had been effectuated in a timely fashion, the "6-Month Rule" (Rules and Regulations Section 7.12{b}) would have been applicable.

MSC: To deny the appeal of the tenant in unit #101.  
(Murphy/Gruber: 5-0)

MSC: To deny the appeal of the tenant in unit #305.  
(Gruber/Murphy: 5-0)

## VII. Communications

The Commissioners received several communications concerning cases on the calendar.



VIII. Old Business

- A. Necessary Amendments to the Rules and Regulations in Order to Implement Amendments to the Rent Ordinance Pertaining to Owner Move-In Evictions

In light of Judge Raymond Williamson's Order granting the Writ of Mandate in the case of O'Hara et al. v. City and County of San Francisco (Superior Court Case No. 992704), which stayed the City from enforcing the recently-enacted moratorium on evictions of elderly, disabled and catastrophically ill tenants, amendments to the Rules and Regulations are currently moot. Executive Director Grubb informed the Board that it is unclear at the present time whether or not the City Attorney will appeal the judge's ruling. In the interim, the Task Force appointed by Supervisor Mabel Teng is proceeding with the examination of other possible remediation measures. The Rent Board, in conjunction with the Department of City Planning, the Mayor's Office of Housing and the Redevelopment Agency, is preparing a report on the availability of affordable housing for seniors in San Francisco.

- B. Calculation of Imputed Interest on Capital Improvement Costs

Executive Director Grubb reported that he is engaged in trying to locate experts in this area in order to formulate amendments to Rules and Regulations Section 7.14(b).

- C. Variable Rate Interest Loans for Capital Improvement Work

This issue will be re-calendared upon the direction of Commissioner Murphy.

IV. Remarks from the Public (cont.)

Landlord J.Y.O. Wong, involved in the case at 505 - 26th Ave. #1 (S001-55R & S001-39A), expressed his frustration at how long this case has been going on. A woman in the audience expressed her feeling that the City should develop the equivalent of the Section 8 Program in order to bring rents up to market, instead of a Moratorium on owner move-in evictions. It was her feeling that this is a social, not private, issue.

V. New Business (cont.)

- B. Election of Officers

MSC: To nominate Commissioner Wasserman for Board President.. (Marshall/Gruber: 7-0)

MSC: To nominate Commissioner Marshall for Board Vice-President. (Moore/Wasserman: 7-0)

Congratulations to the Board's new officers!

IX. Calendar Items

April 14, 21 & 28, 1998 - NO MEETINGS

May 5, 1998

7 appeal considerations (1 cont. from 2/17/98; 1 rescheduled from 4/21/98)

X. Adjournment

Vice-President Wasserman adjourned the meeting at 7:30 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
May 5, 1998

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

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SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 39 Curtis St. S001-40A  
(rescheduled from 4/21/98)

The landlord appeals the decision partially granting claims of decreased housing services.

B. 1280 Vallejo St. S001-37A  
(cont. from 4/7/98)

The landlord appeals the decision granting rent reductions due to a decrease in housing services, specifically, the right to have a roommate.

C. 1018 Tennessee St. S001-41A

The landlord appeals the decision denying certification of capital improvement costs for work performed during a period prior to jurisdiction.

D. 424 Laurel St. S001-57R

The tenant appeals the remand decision granting a rent increase based on increased operating expenses.

E. 837 Geary #402 & 302 S001-58R & -59R

Two tenants appeal the decision granting certification of capital improvement costs on the grounds of financial hardship.

F. 1280 Pine St. #401

S001-60R

The tenant appeals the decision granting rent increases based on increased operating expenses and certifying capital improvement costs on the grounds of financial hardship.

G. 1369 Hyde St.

S001-35A

The landlord appeals the decision granting rent reductions during a period of time when repairs were being made to a malfunctioning elevator.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYOR



SHARON K. WASSERMAN  
PRESIDENT

Tuesday, May 5, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

MAY 14 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Moore;  
Murphy; Wasserman.

Commissioners not Present:

Marshall; Mosser.

Staff Present:

Grubb; Wolf.

Commissioner Justman appeared on the record at 6:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 7, 1998.  
(Bierly/Gruber: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network asked if the Board had experienced a "quiet revolution" because of the mistaken reappearance of Commissioner Palma and deletion of Commissioner Justman on the Board's letterhead; asked the Commissioners to vote against Proposition E and for Proposition L; and reminded them that he is running for the Democratic Central Committee for the 12th Assembly District.

V. Consideration of Appeals

A. 39 Curtis St.

S001-40A

(rescheduled from 4/21/98)

The tenants' petition alleging substantially decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$1,305.00 due to habitability defects on the premises. On appeal, the landlords assert that the hearing officer erred in her factual findings and conclusions of law.

MSC: To deny the appeal. (Becker/Bierly: 5-0)

B. 1280 Vallejo St.

S001-37A  
(cont. from 4/7/98)

The tenants' petition alleging a substantial decrease in housing services due to the landlord's refusal to allow a replacement roommate was granted, and the landlord was found liable to the tenants in the amount of \$3,000.00. On appeal, the landlord asserts that the fact that the rental agreement prohibited subletting but also contained language pertaining to procedures for replacing roommates under Rules Section 6.14 was not confusing to the tenants but, rather, they only raised this contention after being questioned by the hearing officer; the contract entered into by the parties is clear and unambiguous as to its prohibitions against sublet and assignment, and these provisions were never modified or waived; interpretation of the contract must be limited to its language, which is specific as to the prohibition against subletting; and the right to sublet is not a housing service as defined by the Ordinance and, therefore, revocation of that right does not warrant a rent reduction.

Since the landlord's attorney submitted a 6-page brief only one day prior to the March 3rd meeting, it was the consensus of the Board to continue consideration of this matter until the April 7th meeting. However, staff was instructed to admonish the attorney that, in the future, such late submissions would not be allowed nor considered.

A few days prior to the Board's rescheduled consideration of this matter, a submission was received from the landlord's attorney asserting that the tenants currently had a third roommate on the premises, that this had been the case at the time of the hearing, and they therefore had suffered no decrease in housing services. However, there was no indication that counsel had provided a copy of the letter to the tenant-appellees. Therefore, the Board again continued this matter, in order for staff to contact the tenants and provide them with an opportunity to respond to these recent allegations.

MSF: To uphold the hearing officer's determination that the contract was ambiguous and deny the appeal. (Becker/Bierly: 2-3; Gruber, Lightner, Wasserman dissenting)

MSC: To find that the contract language was not ambiguous such that the tenants would reasonably believe they had the right to sublet; therefore, there was no substantial reduction in housing services. The Decision of Hearing Officer is overturned and the tenants' petition is denied. (Gruber/Lightner: 3-2; Becker, Bierly dissenting)

C. 1018 Tennessee St.

S001-41A

The landlord's petition for certification of the costs of capital improvement work performed during a period when the building was not subject to the jurisdiction of the Ordinance was denied. On appeal, the landlord raises equitable

arguments. Since he and his wife, former owner-occupiers of the building, had temporarily moved overseas prior to the passage of Proposition I, they did not foresee its passage and raise the rent accordingly. However, since the building would not have become exempt if not for the passage of Prop I, because the owners already resided elsewhere, the provisions of Rules and Regulations Section 7.10(d) are inapplicable and events that took place before the unit was subject to the Rent Ordinance cannot be considered.

MSC: To accept the appeal and remand the case for a hearing to determine whether the tenants' rent has already been increased to reflect the costs of the capital improvement work; if not, to certify the costs, as appropriate. ((Lightner/Gruber: 3-2; Becker, Bierly dissenting))

D. 424 Laurel St.

S001-57R

The landlord's petition for a rent increase based on increased operating expenses was granted on remand. The tenant appeals the remand decision, claiming that: the landlord's cost figures are unreliable and not supported by the documentation provided; the comparison periods have been chosen to create exaggerated results; certain repair costs should be stricken because the repairs were ineffectual; and the tenant was prevented from presenting evidence concerning the condition of her unit as a defense against the proposed increase.

MSC: To deny the appeal but remand the case to the hearing officer on the record for a technical correction on the proper pro-ration of the insurance costs. (Lightner/Gruber: 5-0)

E. 837 Geary St. #402 & 302

S001-58R & -59R

The landlord's petition for certification of capital improvement costs was granted, in part. Two tenants appeal the decision on the grounds of financial hardship.

MSC: As to the tenant in unit #302: to find sufficient hardship to warrant permanent deferral of the approved passthrough unless the tenant's financial circumstances should change, subject to the approval of the landlord. (Becker/Gruber: 5-0)

MSC: As to the tenant in unit #402: to accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Justman: 5-0)

F.1280 Pine St. #401

S001-60R

The tenant's appeal was filed two days late because the tenant claims that he understood the deadline to be calculated using work, rather than calendar, days.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Justman: 5-0)

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted. One tenant appealed the decision on the basis of financial hardship. Because the tenant is working less than full-time, and the ratio between his income and rent appears to have remained somewhat constant throughout his tenancy, it was the consensus of the Commissioners to continue this matter in order for staff to obtain additional information from the tenant.

G. 1369 Hyde St.

S001-35A  
(cont. from 2/17/98)

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Gruber/Becker: 5-0)

Nineteen tenant petitions alleging substantial decreases in housing services were granted, in part, and the landlord was found liable for rent reductions to each tenant for a period of time during which one of the two elevators in the building was non-functioning; and for the lack of a resident manager on the premises sufficiently often to accept deliveries on behalf of residents. The landlord appealed, maintaining that: the reliability of elevator service was not substantially reduced during the period that one of the two elevators was not operational, since the functioning elevator had an improved level of emergency response service; granting rent reductions for reduced services during periods of necessary repair creates a disincentive for landlords to maintain and upgrade their properties; and there was no evidence that there was a building-wide policy that managers would accept parcels for residents, rather, this was an occasional and infrequent favor provided by a former manager.

At the meeting on February 17, 1998, the Commissioners passed a motion to deny the appeal on the issue of receiving parcels, but they continued consideration of the elevator issue until litigation concerning a similar issue regarding the Golden Gateway complex was resolved. The Deputy Director informed the Board that the Writ filed by the owner of the Golden Gateway complex challenging the lawfulness of granting rent reductions to tenants for decreased housing services due to the effectuation of necessary repairs was denied. Therefore, the Board passed the following motion:

MSC: To deny the landlord's appeal regarding the issue of elevator service. (Becker/Bierly: 3-2; Gruber, Murphy dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:



A. The Amicus Brief filed by the Rent Board in response to the tenants' Motion for Peremptory Writ of Mandate in Superior Court Case No. 994-256 on the issue of whether a landlord can evict tenants in two physically distinct units for owner-occupancy.

B. A letter from Executive Director Grubb to District Attorney Terrence Hallinan inquiring as to any action taken regarding the eviction case concerning 1133 Green St. #B, which was referred for investigation into possible criminal prosecution by the Rent Board Commissioners.

C. The office workload statistics for the month of February, 1998.

D. New staff and Commissioners' rosters.

E. During the period December, 1997 through March, 1998, a summary of the two Mediation Agreements which contained agreements that the tenant would vacate the unit.

F. A letter from Attorney Gerald Murphy requesting an Advisory Opinion on whether a tenant who has given 30-day notice of termination of tenancy, but who remains on the premises after expiration of the 30-day notice period, can be evicted without Just Cause. Mr. Grubb will advise Mr. Murphy that the Board cannot furnish Advisory Opinions.

#### VII. Director's Report

Executive Director Grubb reported as follows:

A. The Commissioners' Form 700 Economic Interest Statements were to have been filed as of April 1, 1998.

B. Legislation enabling landlords to pass through to tenants bond-related property tax increases will be heard before the Finance Committee of the Board of Supervisors on May 6th.

C. Marie Corlett Blits, Deputy City Attorney, has been assigned to the Rent Board.

D. The Board has the use of the Mayor's Box for the Giants game next Tuesday night, May 12th.

#### VIII. Calendar Items

May 12, 1998 - NO MEETING

May 19, 1998

8 appeal considerations (1 cont. from 5/5/98)

May 26 & June 2, 1998 - NO MEETINGS

IX. Adjournment

President Wasserman adjourned the meeting at 8:05 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,

May 19, 1998

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

faxed to regist. 5/12/98  
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MAY 14 1998

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
  - V. Consideration of Appeals
- LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- A. 1280 Pine St. #401 S001-60R  
(cont. from 5/5/98)

The tenant appeals the decision granting rent increases based on increased operating expenses and certifying capital improvement costs on the grounds of financial hardship.

- B. 1750 Vallejo St. S001-42A;  
S001-61R thru -80R

Nineteen tenants and the landlord appeal the decision granting rent increases based on increased operating expenses and certification of capital improvement costs.

- C. 2400 Van Ness Ave. #10 S001-43A

The landlord appeals the decision determining liability for rent overpayments .

- D. 235 Greenwich St. #C S001-44A

The landlord appeals the remand decision granting claims of decreased housing services.

- E. 1435 - 47th Ave. S001-81R

The tenant appeals the decision denying claims of unlawful rent increases and reductions in housing services.



F. 150 Franklin #1A & 1B

S001-82R

The tenant appeals the decision partially granting claims of decreased housing services.

G. 171 Divisadero #2

S001-83R

The tenant appeals the decision granting a rent increase based on the Past Rent History of a Proposition I Affected Unit.

H. 2030 Vallejo St.

S001-45A

The landlord appeals the decision granting certification of capital improvement costs but determining liability for rent overpayments.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.

MAYOR

Tuesday, May 19, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
PRESIDENTPOLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUN 05 1998

SAN FRANCISCO  
PUBLIC LIBRARYI. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:05 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present:

Becker; Gruber; Lightner; Marshall; Moore;  
Mosser; Wasserman.

Commissioners not Present:

Bierly; Justman; Murphy.

Staff Present:

Grubb; Wolf.

Commissioner Marshall went off the record at 8:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 5, 1998.

(Becker/Gruber: )

IV. Consideration of Appeals

A. 1280 Pine St. #401

S001-60R

(cont. from 5/5/98)

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted. One tenant appealed the decision on the basis of financial hardship. Because the tenant is working less than full-time, and the ratio between his income and rent appears to have remained somewhat constant throughout his tenancy, it was the consensus of the Commissioners to continue this matter in order for staff to obtain additional information from the tenant. Upon review of the tenant's response, the Board voted as follows:

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 3-2;  
Gruber, Lightner dissenting)

B. 1750 Vallejo St.

S001-42A; S001-61R - 80R

The landlords' petition for rent increases to the tenants in thirty-two units based on increased operating expenses and certification of capital improvement costs was granted, in part. Since retroactive amounts owing from the tenants to the landlords were quite large, the hearing officer ordered that repayment be made in five monthly installments. On appeal, the landlord alleges that the tenants should have to pay the sums owing in full, since they have been on notice regarding the proposed increases since November of 1996. Nineteen tenants appeal the decision on the grounds that: many of the items certified as capital improvements constituted routine repair and maintenance; the repairs were necessitated by the current landlords' deferred maintenance; certain of the capital improvement work is still incomplete; the landlord has been reimbursed for the cost of the energy conservation work in the form of a credit at the time of sale of the building; the independent estimator's report is suspect because her estimates of reasonable costs are suspiciously close to the landlords' actual costs; the landlords should only be compensated for an increase in their costs, and should not be allowed to use the prior owner's costs as a basis for comparison; debt service should not be the basis for a rent increase, in that tenants should not have to subsidize "under-capitalized" landlords; the amounts granted are greater than those petitioned for; and the costs should be apportioned based on the size of the units, because the benefits received are not commensurate.

MSC: To accept the appeals filed by the tenants in nineteen units and remand the case for a new hearing on the following issues: to determine whether there were code violations in existence at the time of the noticed increase based on operating expenses; to clarify that Rules and Regulations Section 6.12 does not require that notice to the landlord be in writing; and to give any tenants not originally allocated the costs of the new windows an opportunity to raise pertinent objections, if any, to the passthrough of costs for this item. To deny the appeals on all other issues raised.  
(Wasserman/Lightner: 3-2; Gruber, Lightner dissenting)

MSC: To deny the individual appeal filed by tenants Hespe in unit #403. (Gruber/Lightner: 5-0)

MSC: To deny the individual appeal filed by tenants Gold and Brandes in unit #406. (Lightner/Gruber: 4-1; Becker dissenting)

MSC: To deny the individual appeal filed by tenant Kendall in unit #A. (Lightner/Gruber: 4-1; Marshall dissenting)

MSC: To deny the landlords' appeal. (Becker/Wasserman: 3-2; Gruber, Lightner dissenting)

C. 2400 Van Ness Ave. #10

S001-43A

The tenants' petition alleging an unlawful increase in rent was granted, and the landlords were found liable to the tenants in the amount of \$911.68. On appeal, the landlords allege that they did not impose a \$10 rent increase prior to twelve months having elapsed, there is no documentary evidence to prove that the rent was increased; and one of the tenants changed the amount of rent that he was tendering to the landlords.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

D. 1435 - 47th Ave.

S001-81R

The tenant's petition alleging decreased housing services and an unlawful increase in rent was denied. The hearing officer found that a rent increase imposed less than twelve months after this tenant moved into the unit was the result of an on-going tenancy that preceded this tenant's move-in date; and that any diminution of services was the result of an acrimonious relationship between the subject tenant and a co-tenant in the unit, and were not the result of any actions taken by the landlord. On appeal, the tenant claims that the hearing officer failed to hold the landlord to the legal requirements of the Ordinance with regard to rent increases

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

E. 150 Franklin St. #1A & 1B

S001-82R

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$840.00. The tenant appeals, asserting that: the rent reductions granted by the hearing officer are not commensurate with the value of the reduced housing services; the hearing officer erred as to the periods of time during which the substandard conditions existed; and that the lack of a rug in one room seriously impacted the use of other areas of the unit, which then had to be used for storage, as well.

MSC: To accept the appeal and remand the case to the hearing officer to re-examine the period of time for which a rent reduction was granted due to the problem with the nails in the hallway carpet; a hearing will be held only if necessary. (Lightner/Gruber: 5-0)

F. 235 Greenwich St. #C

S001-44A

The tenant's petition alleging substantial decreases in housing services and the landlord's failure to repair was granted. The landlord was found liable to the tenant in the amount of \$3,900.00 due to numerous habitability problems on the premises and the landlord's noticed rent increase was ordered deferred

pending abatement of the cited violations of the housing code. The landlord appeals the remand decision on the grounds that there were tacit agreements between the tenant and the landlord that repairs would be kept to a minimum in exchange for extremely low rent; and the reduced base rent amount is lower than what would be charged for one room in an undesirable neighborhood.

MSC: To deny the appeal. (Becker/Wasserman: 5-0)

G. 2030 Vallejo St.

S001-45A

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$38.58 to the tenants in twelve units. However, the landlord was found liable for rent overpayments of approximately \$130,000 due to capital improvements and PG&E passthroughs having been improperly included in base rents; capital improvement passthroughs not having been discontinued after expiration of the amortization periods; and PG&E passthroughs having been carried forward without recalculation since 1987. The landlord appeals on the grounds that: 1) the hearing officer granted relief to tenants that was not requested; 2) the hearing officer ignored the Rent Ordinance and Rules and Regulations; 3) the hearing officer decided issues and claims that were not properly before her; and 4) the decision is unfair and confers free utility services that the tenants were obligated to pay.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

H. 171 Divisadero St. #2

S001-83R

The landlord's petition for a 15.2% rent increase based on the Past Rent History of a Proposition I Affected Unit was granted. The tenant appeals, claiming that a letter from the landlord stating her intent not to raise the rent unless it became necessary to hire a property management firm constitutes a contract; and that there is a reduction in housing services pertaining to use of the garage.

MSC: To deny the appeal. (Gruber/Wasserman: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Order Granting Writ of Mandate in the case of Marquez and Vaughn v. Municipal Court of the City and County of San Francisco (Superior Court Case No. 994256). The Rent Board had filed an Amicus Brief in this case in support of its policy interpretation that a landlord cannot evict tenants in two physically distinct units for owner-occupancy, which Judge Garcia held to be correct as a question of law. A better copy of the Judge's Order will be provided to the Commissioners.

B. A copy of the Order denying the landlord's Writ and Motion for Summary Judgment in the case of Golden Gateway Center v. S.F. Rent Board (Superior Court Case No. 982216). The landlord had challenged the lawfulness of granting rent reductions to tenants for decreased housing services due to the effectuation of necessary repairs.

C. The office workload statistics for the month of March, 1998.

VI. Director's Report

Executive Director Grubb informed the Commissioners that he will try and re-schedule a Giants game in the Mayor's Box since the game the Board had planned to attend was rained out.

VII. Remarks from the Public

The tenant involved in the case at 150 Franklin St. #1A & 1B (S001-82R) expressed his disagreement with the hearing officer and Board's valuation of rent reductions due to decreased housing services.

VIII. New Business

Commissioner Becker expressed his dismay at the "rampant" number of evictions, as quantified in the Board's Annual Report to the Clerk of the Board of Supervisors. Commissioner Lightner voiced her support for a study that would supply data as to the extent of the problem and who it is that is being displaced.

IX. Calendar Items

May 26 and June 2, 1998 - NO MEETINGS

June 9, 1998

7 appeal considerations

Old Business:

A. Brown Act & Sunshine Ordinance Requirements Pertaining to "Remarks from the Public" Portion of the Agenda

B. Section 8

X. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
June 9, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

9/98

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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A. 1337 California St., Apt. #2 S001-46A

The landlord appeals the decision granting certification of capital improvement costs but determining rent overpayments.

B. 145 Vicksburg St. S001-47A

The landlord appeals the decision granting a claim of unlawful rent increase pursuant to Rules and Regulations Section 6.14.

C. 17A Bartlett St. S001-48A

The landlord appeals the decision granting a claim of unlawful rent increases.

D. 505 - 36th Ave. #1 S001-84R

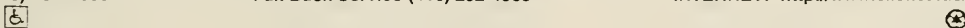
The tenant appeals the decision granting a rent increase based on the Past Rent History of a Proposition I Affected Unit.

E. 1104 Stockton St. #205 S001-86R

One tenant appeals the decision granting certification of capital improvement costs based on financial hardship.

F. 1530 Grant Ave. S001-85R

One tenant appeals the decision granting a capital improvement passthrough on the grounds of financial hardship.



G. 533 Page St.

S001-49A

The Master Tenant appeals the decision granting claims of decreased housing services and violation of Ordinance Section 37.3(c).

VI. Communications

VII. Director's Report

VIII. Old Business

A. Brown Act and Sunshine Ordinance Requirements Pertaining to  
"Remarks from the Public" portion of the Agenda

B. Section 8

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYOR

9/98  
SHARON K. WASSERMAN  
PRESIDENT

Tuesday, June 9, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUN 18 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:02 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Marshall; Moore;  
Mosser; Murphy; Wasserman.

Commissioners not Present:

Justman; Lightner.

Staff Present:

Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of May 19, 1998.  
(Gruber/Marshall: 5-0)

IV. Remarks from the Public

The tenant involved in the case at 533 Page Street (S001-49A) informed the Board that the police report that was filed by the Master Tenant contained false allegations and that she is "not into making violent threats against her landlord." The landlord in the case at 505 - 36th Ave. #1 (S001-84R) said that the description of the case on the Agenda did not match the tenant's appeal.

V. Consideration of Appeals

A. 1337 California St., Apt. #2

S001-46A

The landlord's petition for certification of capital improvement costs was granted. The landlord was found liable to the tenant in one unit in the amount of \$513.91 due to an annual increase having been given prior to twelve months of occupancy. On appeal, the landlord asserts that the move-in date listed on the petition and relied on by the hearing officer was in error.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

The tenants' petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenants in the amount of \$3,400.00 due to a renegotiation of the lease upon the original tenant's having vacated the unit. On appeal, the landlord asserts that the hearing officer erred in stating that there was not a no subletting and assignment clause in the lease for the premises.

MSC: To grant the landlord's appeal and remand the case to the hearing officer to correct the Finding that the lease did not contain an absolute prohibition against subletting, and, if appropriate, to determine that a new tenancy had been created and therefore deny the tenants' petition alleging unlawful rent increase. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

C. 117A Bartlett St.

S001-48A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$541.24. On appeal, the landlord claims that inclusion of the costs of parking would change the overpayment calculations.

MSC: To accept the appeal and remand the case for a new hearing on the issue of parking charges and to correct the calculation of rent overpayments, if necessary. (Murphy/Marshall: 5-0)

D. 505 - 36th Ave. #1

S001-84R

The landlord's petition for a rent increase based on the Past Rent History of a Proposition I Affected Unit was granted. On appeal, the tenant claims that the hearing officer exhibited bias towards the landlord and that the rent should be reduced due to harassment on the part of the landlord.

MSC: To deny the appeal. (Gruber/Becker: 5-0)

E. 1104 Stockton St. #205

S001-86R

The tenant's appeal was filed two days late because the tenant failed to understand the magnitude of the rent increase granted by the hearing officer until receipt of notice of rent increase from the landlord.

MSC: To find good cause for the late filing of the appeal. (Murphy/Becker: 5-0)

The landlord's petition for certification of capital improvement costs was granted, resulting in a passthrough in the amount of \$107.39 to the tenants in 8 units. One tenant appeals on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Gruber: 5-0)

F. 1530 Grant Ave.

S001-85R

The landlords' petition for certification of capital improvement costs to the tenants in two units was granted, in part. The tenants in one unit appeal the decision on the basis of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Gruber: 5-0)

G. 533 Page St.

S001-49A

The tenants' petition alleging a substantial decrease in housing services due to lack of heat was granted and rent reductions in the amount of \$3,150.00 were ordered. Additionally, the Master Tenant of the unit was found to have charged the sub-tenants rents in excess of those being paid to the landlord, and was held liable for rent overcharges in the amount of \$10,800.00. On appeal, the Master Tenant objects to the hearing officer's "self-serving and false allegations" regarding the demeanor of his representative at the hearing, and the "threats" and "criminal conduct" of the subtenants.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Marshall/Gruber: 5-0)

MSC: To deny the appeal. (Gruber/Becker: 4-0)

#### VI. Director's Report

Executive Director Grubb informed the Board that all items in the proposed budget for next year were approved except for a rate increase for the Commissioners. The Budget Analyst's Office has, however, questioned the additional permanent Hearing Officer position. The Departmental Budget Hearing will be on Tuesday the 16th. The Commissioners reiterated their support for the additional staff, and offered their assistance should it be needed.

#### VII. Old Business

- A. Brown Act and Sunshine Ordinance Requirements Pertaining to "Remarks from the Public" Portion of the Agenda

This item was continued pending a response from the Office of the City Attorney.

#### B. Section 8

Supervisor Ammiano's Office had requested that the Commission write a letter of support for recently introduced legislation that would put certain aspects of Section 8 and other assisted tenancies under Rent Board jurisdiction. The proposed legislation would: provide for regulation of rent increases for tenants who receive Section 8 vouchers, but not certificates; specify that the base rent upon the unit coming under jurisdiction is the contract rent that the landlord has

been receiving under their contract with the Housing Authority; require "Just Cause" for eviction; and provide that the rent increase and eviction notice requirements of the Rent Ordinance are in addition to the HUD notice requirements. No other provisions of the rent law would be applicable. After discussion, since there was not unanimity among the Commissioners, it was decided that the Board would take no official position on the legislation. The Commissioners are, of course, free to testify as individuals at the hearings that will be held before the Housing and Land Use Committee of the Board of Supervisors.

IV. Remarks from the Public (cont.)

The tenant in the case at 533 Page St. (S001-49A) informed the Board that the Master Tenant's representative had just threatened her in the hallway, and asked what she should do. Brooke Turner from the Coalition for Better Housing applauded the Commissioners' not taking a position on the Section 8 legislation because it is a "political issue" and "best avoided."

VIII. Calendar Items

June 16, 1998 - NO MEETING

June 23, 1998

4 appeal considerations

Old Business:

A. Costa-Hawkins

B. Valuation of Decreased Housing Services

IX. Adjournment

President Wasserman adjourned the meeting at 7:45 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
June 23, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

A G E N D A

POLLY MARSHALL  
VICE-PRESIDENT

6/23/98

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 1710 - 33rd Ave. S001-50A

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

B. 3955 - 17th St. #8 S001-51A

The landlord appeals the decision granting refunds of rent overpayments based on Rules and Regulations Section 6.14.

C. 955 Bush St. #602 S001-87R

The tenant appeals the decision granting certification of capital improvement costs on the grounds that Rules and Regulations Section 7.12(b) (the "6-Month Rule") should apply.

D. 1030 Masonic Ave. #4 S001-88R

The tenant appeals the dismissal of his petition alleging decreased housing services alleging Non-Receipt of Notice of Hearing.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - A. Costa-Hawkins (Civil Code Section 1954.53)
  - B. Valuation of Decreased Housing Services
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

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## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

(2/97) lk/comm/accmgt



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, June 23, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

3/98  
POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUL 02 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:05 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Marshall; Moore;  
Mosser; Wasserman.

Commissioners not Present:

Justman; Lightner.

Staff Present:

Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 9, 1998.  
(Marshall/Gruber: 4-0)

IV. Remarks from the Public

Nancy Tucker, a Prop. I landlord, asked that the rent law be re-written in English, since she feels that it is presently written for lawyers. George Ju, the landlord involved in the case at 1710 33rd Ave. (S001-50A), asked if it was too late to submit additional documentation in support of his appeal.

V. Consideration of Appeals

A. 1710 - 33rd Ave.

S001-50A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$2,175.00. Additionally, rent overpayments in the amount of \$700.00 were found to be owing from the landlord to the tenant. On appeal, the landlord claims that he never threatened to evict the tenant if he failed to pay the requested rent increase; the tenant had agreed to provide maintenance and repair of the premises, and deducted the costs from the rent; the conditions were not as depicted in the Decision of Hearing Officer; and the Department of Building Inspection found that the violations had been abated.





Since the tenant's attorney had not received a copy of the landlord's appeal, and therefore had not had a chance to respond, this matter was continued to the next meeting.

B. 3955 - 17th St. #8

S001-51A

The tenant's petition alleging an unlawful increase in rent based on Rules and Regulations Section 6.14 was granted, and the landlord was found liable to the tenant in the amount of \$2,909.07. Neither the landlord nor his attorney appeared at the properly noticed hearing, although the case had been postponed twice previously at the landlord's request. On appeal, the landlord's attorney apologizes for a miscommunication between himself and prior counsel for the landlord, and requests another hearing.

MSC: To deny the appeal. (Marshall/Becker: 4-0)

C. 955 Bush St. #602

S001-87R

The landlords' petition for certification of capital improvement costs to the tenants in 21 units was granted, in part. One tenant appeals the decision on the grounds that, since she moved in after the commencement of the seismic retrofit work, it is within the spirit of Rules and Regulations Section 7.12(b) that she should not be charged for the costs.

MSF: To accept the appeal and remand the case to disallow passthrough of the costs of work that commenced prior to the tenant's having moved into the unit, pursuant to the spirit of Rules and Regulations Section 7.12(b). (Becker/Marshall: 2-3; Gruber, Murphy, Wasserman dissenting)

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

D. 1030 Masonic Ave. #4

S001-88R

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he failed to receive notice of the hearing because the landlord removed locks on the mailboxes at the property in the course of doing capital improvement work, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:



A. A "Senior Protection Fund" resolution authored by Supervisor Teng, which has been referred for consideration to the OMI Task Force.

B. The office workload statistics for the months of April and May, 1998.

C. An article from the June 16th Independent regarding proposals for direct subsidies to low-income tenants in exchange for the elimination of rent control for wealthier tenants, which are being explored by representatives of the landlord and tenant communities.

D. A letter from a landlord suggesting that there be more flexibility when rent increases are warranted; that the amount of interest that must be paid on security deposits be updated; and that the process for obtaining a rent increased based on increased operating expenses be simplified.

E. A copy of a recent column in the S.F. Examiner entitled "Rent Control Penalizes SF Newcomers."

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that the Board of Supervisors has approved two temporary hearing officer positions; one for nine months, and the other for a full twelve months. While this will be of help in reducing the 5-month hearing backlog that the agency is currently experiencing, it will add to the supervisory burden on Senior Hearing Officer Sandy Gartzman. While Ms. Gartzman is heavily involved in implementation and testing of the new database, hearing officers Connie Brandon and Debbie Lim are assisting with decision review; in the fall, Ms. Brandon will return to conducting hearings on a full-time basis.

Mr. Grubb discussed other options for backlog reduction, including contracting out of hearings, and possible incumbent problems in achieving and maintaining quality control. Other suggestions include: adding operating and maintenance expense and unlawful rent increase petitions to the Expedited Hearing process; allowing for hearings to be waived in certain types of cases; expansion of the Mediation Program to include landlord petitions; implementation of the Minute Order Program; continuing to phone landlords and tenants prior to their hearing dates in order to reduce the number of postponements; and asking the Board of Supervisors to amend the timelines established in the Ordinance in 1979.

#### VIII. Old Business

##### A. Valuation of Decreased Housing Services

In response to a Memorandum from the Deputy Director, the Commissioners discussed the amount the rent should be reduced when a housing service is taken away: the "market" or replacement value of the service, or the amount the tenant had been paying pursuant to their contract with the landlord. This



question comes up most often with regard to parking and storage spaces. The Board discussed the policy considerations and legal issues raised, including the possibility of disparate results when no value for the service was ever established; the need to provide a disincentive for reduction of housing services; and replacement value sometimes constituting a disproportionate share of the rent. Commissioner Wasserman felt that a landlord's motive in removing the service should also be looked at.

B. Costa-Hawkins (Civil Code Section 1954.53)

In preparation for the implementation date of January 1, 1999, the Commissioners discussed possible amendments to the Ordinance and Rules and Regulations necessitated by the passage of the Costa-Hawkins Rental Housing Act in 1995. In a Memorandum dated June 15, 1998, the Deputy Director framed certain questions for the Board's consideration. The Board appeared to have a consensus opinion as to the following questions: single family dwellings with in-law units, whether legal or illegal, constitute two-unit buildings and will not become exempt; likewise, if there is another structure on the same lot as a single family dwelling, then the home is not "alienable separate from the title to any other dwelling unit" because it cannot be sold separately, and it will not become exempt; the rental unit fee will continue to be collected on units which are partially exempted by Costa-Hawkins as they will still be subject to eviction limitations under the Ordinance; in a mixed-use building with residential and commercial units, the commercial units will not be counted, unless they are used for residential purposes and therefore constitute a "dwelling unit"; and, since a decrease in housing services is defined in the Ordinance as a rent increase, tenants in units affected by Costa-Hawkins will be precluded from filing petitions alleging decreased housing services and/or failure to repair.

Areas that require additional discussion and/or assistance from the City Attorney include: are life-time leases issued pursuant to a condominium conversion under the Subdivision Code affected in any way?; what is the status of tenancies in rooms that are separately rented in a single family dwelling?; since the legislation does not affect the City's "authority to regulate or monitor the basis for eviction", to what extent will allegations of wrongful eviction in affected units be investigated, especially with regard to retaliatory rent increases?; what constitutes "serious health, safety, fire or building code violations" sufficient to override exemption of the substandard unit, and does this apply to the "setting of initial rent" in a non-vacancy control jurisdiction such as San Francisco?; likewise, how does the provision in Section 1954.53(a)(1) which allows for setting of the initial rent only if the previous tenancy was not terminated apply in a jurisdiction with "Just Cause" eviction?

IV. Remarks from the Public (cont.)

Proposition I landlord Nancy Tucker reiterated that real people are affected by the law, and have to figure it out for themselves. She informed the Board that the landlords who spearheaded the drive to pass Proposition E, the measure



that would have restored the exemption for owner-occupied 4-unit or less buildings, are moving out of the City. George Ju, the landlord in the case at 1710 - 33rd Ave. (S001-50A) asked whether in-law units come under rent control.

IX. Calendar Items

June 30, 1998 - NO MEETING

July 7, 1998

6 appeal considerations (1 cont. from 6/23/98)

X. Adjournment

President Wasserman adjourned the meeting at 8:45 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,

July 7, 1998

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

2 POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

7/98

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

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JUL 02 1998

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A. 1710 - 33rd Ave.

S001-50A  
(cont. from 6/23/98)

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

B. 373 - 4th Ave. #3

S001-52A

The landlord appeals the decision granting a claim of unlawful rent increases.

C. 2759 Harrison St.

S001-53A

The landlord appeals the decision granting rent reductions due to decreased housing services.

D. 259 Peralta

S001-90R

The tenant appeals the remand decision granting certification of capital improvement costs.

E. 757 Sutter St. #205

S001-89R

The tenant appeals the remand decision denying a claim of decreased housing services.



F. 260 Carl St. #1

S001-54A

The landlord appeals the decision granting claims of rent overpayments and decreased housing services.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, July 7, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR  
DOCUMENTS DEPT.

POLLY MARSHALL  
VICE-PRESIDENT

JUL 15 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

In the absence of President Wasserman, Commissioner Gruber called the meeting to order at 6:11 p.m.

II. Roll Call

Commissioners Present: Bierly; Gruber; Justman; Moore; Murphy.  
Commissioners not Present: Becker; Lightner; Marshall; Mosser;  
Wasserman.  
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of June 23, 1998.  
(Murphy/Bierly: 5-0)

IV. Remarks from the Public

A. Eladio Ballestas asked that the Board refer evictions based on the number of occupants in a unit and/or involving live/work tenancies to the City Attorney to aid in enforcement of Housing Code Section 503(d), which was enacted to prevent housing discrimination against families.

B. Catherine Wofford and Emily Johnson, tenants residing in a property on Fulton Street, informed the Board that they are being evicted in violation of Housing Code Section 503(d).

C. Kristy Capogrossi, Attorney for the landlords in the case at 373 - 4th Ave. #3 (S001-52A), informed the Commissioners that her clients, who failed to appear at the hearing on this case, were in attendance at this evening's Board meeting.

D. Brian Davis, Attorney for the tenants in the case involving 373 - 4th Ave. #3, objected to the presence at the Board meeting of the landlady in her wheelchair, stating that this constituted "physical evidence", in contravention of the procedures governing appeal considerations.



E. Andre Rosen, a tenant who lives on 18th Street, told the Board that he is being wrongfully evicted from his live/work space.

V. Consideration of Appeals

A. 1710 - 33rd Ave.

S001-50A  
(cont. from 6/23/98)

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$2,175.00. Additionally, rent overpayments in the amount of \$700.00 were found to be owing from the landlord to the tenant. On appeal, the landlord claims that he never threatened to evict the tenant if he failed to pay the requested rent increase; the tenant had agreed to provide maintenance and repair of the premises, and deducted the costs from the rent; the conditions were not as depicted in the Decision of Hearing Officer; and the Department of Building Inspection found that the violations had been abated.

Since the tenant's attorney had not received a copy of the landlord's appeal, and therefore had not had a chance to respond, this matter was continued to the next meeting. Because of an apparent misunderstanding regarding the fact that the matter had been continued to this evening's meeting, the below motion was passed.

MSC: To continue this matter to the meeting on July 21, 1998; notice will be sent to both parties outlining the deadline for additional submissions. (Murphy/Gruber: 5-0)

B. 373 - 4th Ave. #3

S001-52A

The tenants' petition alleging unlawful increases in rent was granted, and the landlords were found liable to the tenants in the amount of \$1,425.00. The landlords, who are not fluent in English, failed to appear at the properly noticed hearing, apparently because they believe the property is exempt from Rent Board jurisdiction pursuant to the substantial rehabilitation provisions of the Ordinance. On appeal, the landlords request another hearing to present proof of exemption from the Ordinance.

MSC: To accept the appeal and remand the case for a new hearing.  
(Murphy/Moore: 5-0)

C. 2759 Harrison St.

S001-53A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$525.00 due to a closet in the unit having been converted to a staircase. On appeal, the landlord submits evidence that shows that the date of conversion of the closet was November 15, 1997 instead of July 15, 1997.





MSC: To accept the appeal and remand the case to the hearing officer on the record for a correction as to the commencement date for the rent reduction due to the loss of closet space. (Murphy/Gruber: 5-0)

D. 259 Peralta

S001-90R

The landlord's petition for certification of capital improvement costs was granted, resulting in a passthrough to the tenants in the amount of \$292.25. The tenants' appeal of the Decision of Hearing Officer was granted and the case was remanded on the issue of whether the newly constructed carport was of benefit to them. Since the hearing officer found that it was not, the amount of the passthrough was reduced to \$139.48. On further appeal, the tenants claim that the hearing officer exhibited bias in favor of the landlord at the original and remand hearings.

MSC: To deny the appeal. (Moore/Bierly: 5-0)

E. 757 Sutter St. #205

S001-89R

The tenant's petition alleging a substantial decrease in housing services due to the landlord's one entry door key policy was granted, and the landlord was found liable to the tenant in the amount of \$30.00 per month. Upon appeal by the landlord, the case was remanded to the hearing officer to determine whether the "one key per tenant" policy was sufficiently flexible to accommodate inconveniences suffered by the tenant; the hearing officer found that it was, and the rent reduction was overturned. Additionally, the tenant's claims that the landlord's failure to provide rent receipts and a leak in the bathtub constituted substantial decreases in housing services were denied. The tenant appeals the remand decision, claiming that receiving a rent receipt constitutes a housing service as contemplated by the Ordinance; that the landlord is not the legal owner of the property; that security in the building has not been enhanced by the new security system; and that the rent reduction granted in the original Decision should be restored.

MSC: To deny the appeal. (Murphy/Moore: 5-0)

F. 260 Carl St. #1

S001-54A

The tenants' petition alleging overpayments in rent was granted and the landlord was found liable in the amount of \$564.40 due to compounding of rent increases. Additionally, the hearing officer determined that the tenants would be entitled to a rent reduction in the amount of \$216.00 per month should storage space that they had been using since the inception of the tenancy be taken away. The landlord appeals, asserting that: the hearing officer exhibited bias on behalf of the tenants; and, since the storage area has been used as a workshop, and not for residential storage, it cannot be considered a "housing" service.



MSC: To accept the appeal and remand the case for a hearing only on the issue of the value of the storage space; both parties are to provide additional evidence as to the value of comparable storage space in the neighborhood. The parties are also urged to settle this matter and withdraw the petition.  
(Murphy/Gruber: 5-0)

VI. Communications

The Commissioners received a copy of the Notice of Appeal filed by the landlord in the case of Golden Gateway Center v. S.F. Rent Board (Superior Court Case No. 982216).

VII. Director's Report

Executive Director Grubb confirmed that the Board of Supervisors approved the funds for the second temporary Hearing Officer position. It is anticipated that the start date for the positions will be October 1st.

IV. Remarks from the Public (cont.)

The tenant in the case at 260 Carl St. #1 (S001-54A) explained the circumstances surrounding his need for 24-hour access to storage space on the premises, including the difficulty of locating suitable space in his neighborhood. Casey Froge, the office administrator for the landlord in the same case, told the Board that the landlord has concerns regarding the use of electricity in the basement because of insurance liability.

VIII. Calendar Items

July 14, 1998 - NO MEETING

July 21, 1998

4 appeal considerations (1 cont. from 7/7/98)

July 28, 1998 - NO MEETING

IX. Adjournment

Commissioner Gruber adjourned the meeting at 7:15 p.m.



# City and County of San Francisco



SF

R52

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7/21/98

## Residential Rent Stabilization and Arbitration Board

### NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,

July 21, 1998

25 Van Ness Avenue, #70, Lower Level

#### AGENDA

*for copy 1st. Posted 7/14/98*  
DOCUMENTS DEPT.

JUL 15 1998

SAN FRANCISCO  
PUBLIC LIBRARY

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

II. Roll Call

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1719 - 33rd Ave.

S001-50A  
(cont. from 7/7/98)

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

B. 784-A Dolores St.

S001-91R

The tenant appeals the decision granting certification of capital improvement costs.

C. 520 Geary St. #301

S001-92R

The tenant appeals the denial of her petition alleging decreased housing services due to the loss of quiet enjoyment of her unit.

D. 226 Irving St., Apt. #2

S001-55A

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

Tuesday, July 21, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

21/98  
POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.  
JUL 28 1998  
SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present:

Bierly; Gruber; Lightner; Moore; Murphy;  
Palma; Wasserman.

Commissioners not Present:

Becker; Marshall; Mosser.

Staff Present:

Grubb; Wolf.

Commissioner Justman appeared on the record at 6:15 p.m.; Commissioner Murphy arrived at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 7, 1998.  
(Moore/Gruber: 5-0)

IV. Remarks from the Public

Landlord Allen Chase appeared with Lisa Napolitano, one of the tenants in a unit that he owns. Mr. Chase and Ms. Napolitano explained that there is an enforceable absolute prohibition against subletting in the Rental Agreement for the apartment. Ms. Napolitano's roommate is getting married, and she would like to find a replacement roommate and remain in the unit. This is fine with Mr. Chase. except he believes that the unit is now worth \$325.00 more than the amount of rent the current tenants are paying. He would be willing to waive the absolute prohibition on this one occasion, but only if he could recover the additional amount of rent. While Ms. Napolitano would prefer to remain at the same rent, she does not want to move, and believes that splitting a \$325.00 rent increase with a new roommate would be less expensive than the amount she would pay for a new apartment. Because of the "No Waiver" provision of the Rent Ordinance, Mr. Chase is unwilling to risk future liability for rent overpayments by allowing Ms. Napolitano to pay a rent increase in excess of limitations. The Board will put this issue on the Agenda for the August 18th Board meeting; Commissioner Lightner will draft language for a possible Rules change for the Board's consideration.





Tenant Carmen Garcia, involved in the appeal concerning 520 Geary St. #301 (S001-92R), inquired as to how the Board is constituted.

V. Consideration of Appeals

A. 1710 - 33rd Ave.

S001-50A  
(cont. from 7/7/98)

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$2,175.00. Additionally, rent overpayments in the amount of \$700.00 were found to be owing from the landlord to the tenant. On appeal, the landlord claims that he never threatened to evict the tenant if he failed to pay the requested rent increase; the tenant had agreed to provide maintenance and repair of the premises, and deducted the costs from the rent; the conditions were not as depicted in the Decision of Hearing Officer; and the Department of Building Inspection found that the violations had been abated.

Since the tenant's attorney had not received a copy of the landlord's appeal, and therefore had not had a chance to respond, this matter was continued from the meeting of June 23rd to the meeting on July 7th. Because of an apparent misunderstanding regarding the fact that the matter had been continued to that date, the Board passed a motion to further continue the matter to this evening's meeting.

MSC: To deny the appeal. However, if certain repairs have been effectuated, the parties shall make the appropriate adjustment in the amount that the landlord owes the tenant.  
(Moore/Bierly: 5-0)

B. 784-A Dolores St.

S001-91R

The landlords' petition for certification of capital improvement costs was granted, in part, resulting in a monthly passthrough in the amount of \$45.48. On appeal, the tenant claims that: several of the items were necessitated by the current landlords' deferred maintenance; some of the work was unnecessary; and certain of the work was not yet complete.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

C. 520 Geary St. #301

S001-92R

The tenant's petition alleging substantially decreased housing services was denied because the hearing officer found that the tenant had failed to meet her burden of proving that another tenant in the building was making sufficient noise to interfere with the quiet enjoyment of the unit. The tenant does not appeal the denial of her rent reduction claim. Rather, the tenant protests the inclusion of a statement in the decision to the effect that she has made



“unwarranted complaints”, and demands that this phrase be stricken from the record.

MSC: To deny the appeal. (Bierly/Moore: 5-0)

D. 226 Irving St., Apt. #2

S001-55A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$3,200.00 due to serious habitability defects on the premises. Additionally, the annual rent increase imposed by the landlord was ordered deferred until outstanding code violations were abated. The landlord had failed to appear at the properly noticed hearing. On appeal, the landlord claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Lightner/Moore: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Summary of Mediated Move-Out Agreements for the months of April through June, 1998.

B. A job announcement for the Construction Estimator contract with the Rent Board.

C. A letter from landlord Allen Chase outlining the situation involving subletting described in Remarks from the Public, above.

#### VII. Director's Report

Executive Director Grubb introduced Lierion Gaylor, the Rent Board's Budget Analyst from the Mayor's Office. He informed the Board that the amended Moratorium on Owner Move-In (OMI) Evictions introduced by Supervisor Ammiano and passed by the Board of Supervisors will go into effect on August 16th; a piece of legislation which would restrict OMI evictions was introduced by Supervisor Bierman on July 20th; and an Initiative circulated by several tenants' groups on this issue will be on the ballot in November. Legislation splitting the costs of capital improvement passthroughs and bond-related property tax increases evenly between landlords and tenants will be introduced by Supervisor Katz. Legislation introduced by Supervisor Ammiano and passed by the Board of Supervisors bringing certain aspects of Section 8 and other tenant-based rental assistance programs under Rent Board jurisdiction passed its Second Reading at the Board of Supervisors on July 20th, and will go into



effect 30 days after it is signed by the Mayor. The Commissioners will be furnished with copies of all of the above legislation.

IV. Remarks from the Public (cont.)

Tenant Carmen Garcia, of 520 Geary St. #301 (S001-92R), asked why her appeal had been denied. George Ju, the landlord's representative for the case at 1719 - 33rd Ave. (S001-50A), thanked the Commissioners for their hard work and made several suggestions regarding dissemination of information regarding rent control in "plain language." The landlord in the case at 784-A Dolores St. (S001-91R) stated his beliefs that what is needed is less bureaucracy, and not more; that hearing officers' decisions contain mistakes and irrelevant testimony and language; and that rent control destroys landlord-tenant relationships.

VIII. Calendar Items

July 28, August 4 and August 11, 1998 - NO MEETINGS

August 18, 1998

6 appeal considerations (1 rescheduled from 8/4/98)

Old Business:

- A. "Remarks from the Public" Portion of the Agenda
- B. Rules Section 7.12(b) (The "6-Month Rule")
- C. Rent Increases When There is an Absolute Prohibition Against Subletting

IX. Adjournment

President Wasserman adjourned the meeting at 7:15 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
August 18, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.  
JUL 28 1998  
SAN FRANCISCO  
PUBLIC LIBRARY

18/98

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 1213 B York St. T001-01A  
(rescheduled from 8/4/98)

The landlord appeals the denial of a Petition for Extension of Time.

B. 1550 Bay St. S001-93R thru S003-53R

Sixty tenants appeal the decision granting rent increases based on increased operating expenses.

C. 4030 Cabrillo St. T001-02A

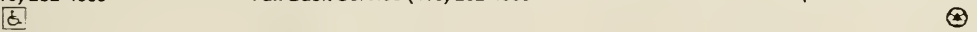
The landlord appeals the decision granting a claim of decreased housing services and determining rent overpayments.

D. 416 Lombard St. T001-04A

The landlord appeals the decision granting rent reductions based on the loss of use of a deck and denial of permission to have a roommate.

E. 43301/2 - 17th St. T001-03A

The landlord appeals the decision granting a claim of decreased housing services and determining rent overpayments.







F. 150 Julian Ave.

T001-01A

The tenant appeals the denial of a petition alleging an unlawful rent increase.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Brown Act and Sunshine Ordinance Requirements Pertaining to "Remarks from the Public" Portion of the Agenda

B. Rules and Regulations Section 7.12(b) (The "6-Month Rule")

C. Rent Increases When There is an Enforceable Absolute Prohibition Against Subletting

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, August 18, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

AUG 28 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:14 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Marshall;  
Mosser; Wasserman.

Commissioners not Present:

Justman.

Staff Present:

Grubb; Wolf.

Commissioners Moore and Murphy appeared on the record at 6:18 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 21, 1998.

(Gruber/Lightner: 5-0)

IV. Remarks from the Public

A. Bob Plantholdt from the Sunshine Task Force stated his opinion that the Commission must record their meetings on audio tape and use microphones for the benefit of the hearing-impaired.

B. Robert Pender of the Tenants' Network informed the Board that Proposition G on the November ballot, which would restrict owner-occupancy evictions, has been endorsed by the San Francisco Labor Council and Democratic Central Committee.

C. A landlord spoke in favor of amending the Rules and Regulations to allow tenants to pay more rent in exchange for permission to sublet when there is an absolute prohibition against subletting and assignment in the lease or rental agreement.

V. Old Business

A. Brown Act and Sunshine Ordinance Requirements Pertaining to  
"Remarks from the Public" Portion of the Agenda



Deputy City Attorneys Claire Sylvia and Marie Blits appeared to discuss due process concerns in allowing parties to an appeal to comment on the merits of their case during the "Remarks from the Public" portion of the Agenda. However, since the Commissioners had not received a Confidential Memorandum prepared by the Office of the City Attorney, this item was continued to a future meeting.

VI. Consideration of Appeals

A. 1213 B York St.

T001-01A

(rescheduled from 8/4/98)

The landlord's Petition for Extension of Time to do Capital Improvement Work was denied because the hearing officer found that the landlord had acted in bad faith for the following reasons: the work done to the interior of the tenant's unit had been completed prior to the request for additional time; the exterior work did not render the unit uninhabitable and two other units in the building were occupied while this work was being done; and the landlord protracted the period of the tenants' continued displacement in order to sell the unit. On appeal, the landlord claims that the extreme weather brought on by El Nino hampered the construction; extensive framing damage necessitated the work being done from inside the unit; there was more damage to the building than originally anticipated; and the unit could not be considered habitable until the Department of Building Inspection had performed a Final Inspection, which could not have taken place until after the exterior work had been completed.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

Commissioners Moore and Marshall expressed their concerns regarding the course of conduct undertaken by the landlord in this case, and asked that staff report back to the Board at the next meeting regarding the advisability of a referral to the Office of the District Attorney.

B. 1550 Bay St.

S001-93R thru S003-53R

The landlord's petition for rent increases based on increased operating expenses was granted. One tenant appeals the decision on the grounds that, since his tenancy commenced after ownership of the property changed, he should not be subject to the rent increase pursuant to Rules Section 6.10(a). In addition, sixty tenants appeal the decision, asserting that the "anti-speculation clause" {Rules Section 6.10(f)} is applicable to the facts of this case. The landlord had purchased the "unit" or building in 1987, but did not acquire the land until December of 1994. The hearing officer therefore found that since the most recent purchase of the "unit" did not occur within two years of the date of purchase of the unit by the seller of the unit to the current landlord, Rules Section 6.10(f) is inapplicable. The tenants argue that since the definition of "rental unit" in Ordinance Section 37.2(p) specifically includes "the land and appurtenant buildings thereto", the sale and acquisition of the land cannot be



ignored, even though the landlord owned the building prior to the acquisition of the land.

MSC: To recuse Commissioners Gruber and Murphy from consideration of these appeals. (Marshall/Becker: 5-0)

Since the tenants had submitted a relevant submission on the afternoon of the meeting, to which the landlord's attorney had not had a chance to respond, the Commissioners continued consideration of these appeals to the September 15th Board meeting.

C. 4030 Cabrillo St.

T001-02A

The tenants' petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenants in the amount of \$2,160.00 due to habitability defects on the premises. Additionally, rent overpayments in the amount of \$560.70 were determined to be owing from the landlord to the tenant. The tenant's claim that the landlord had failed to perform requested repairs was denied. On appeal, the landlord asserts that the tenants' claim regarding the defective heater was not included in their petition; that repairs were effectuated in a timely manner; that the roof leak was minor in nature and did not seriously inconvenience the tenants in any way; and that the amounts granted are unwarranted and excessive.

MSC: To accept the appeal and remand the case to the hearing officer on the record to delete the amount granted due to the defective heater, since the issue was not raised in the tenants' petition. (Becker/Marshall: 5-0)

D. 416 Lombard St.

T001-04A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$1,636.35 due to the loss of use of a roof deck and \$5,600.00 due to revocation of the right to have a roommate. On appeal, the landlord asserts that: the language in the Rental Agreement prohibiting subletting is clear and unambiguous; the landlord did not waive her right to enforce the covenant prohibiting subletting and the Rental Agreement specifically provides that failure to enforce a term of the contract shall not constitute a waiver; the issuance of a notice pursuant to the provisions of Rules Section 6.14 does not constitute waiver on the part of the landlord; provisions of the Police and Housing Codes that deem restrictions on the number of occupants in a unit as contrary to public policy are inapplicable; the right to sublet is not a "housing service"; and, the tenant never had a legal right to use the roof platform and therefore did not suffer the loss of a housing service upon its legal removal.

MSC: To deny the landlord's appeal on the issue of the rent reductions granted due to revocation of the right to sublet but find that, under the facts of this case, no permanent waiver of





the no subletting and assignment clause has been established, and the landlord has the right to reassert the no subletting clause if and when there is a new occupant on the premises, at the commencement of that tenancy. (Wasserman/Becker: 4-1; Gruber dissenting)

MSC: To accept the appeal and remand the case for a new hearing to find out what representations regarding the use of the roof deck were made to the original tenant in the unit.  
(Becker/Lightner: 5-0)

E. 43301/2 - 17th St.

T001-03A

The tenant's petition alleging decreased housing services, the landlord's failure to repair, improper rent increases and incorrect calculation of a PG&E passthrough was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,580.00 due to habitability problems on the premises. Additionally, rent overpayments in the amount of \$608.00 were determined, although no refund was ordered since the tenant had failed to pay rent since July of 1997. On appeal, the landlord claims that: the tenant is not entitled to occupy the premises; she has attempted to effectuate repairs, but the tenant has failed to cooperate; the tenant constitutes a nuisance and a danger to the other tenants; and the dates and amounts granted for rent reductions are incorrect.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

F. 150 Julian Ave.

T001-01A

The tenant's petition alleging an unlawful increase in rent from \$540.00 to \$807.30 was denied because the hearing officer found that the tenant had failed to meet her burden of proving that the amount was in excess of allowable annual and banked increases available to the landlord. On appeal, the tenant claims that the sellers could not have told the landlord that increases had not been imposed between 1982 and 1989, because they were not the owners of the property at that time; that the resident manager for the building at that time could confirm that increases had been imposed, but illness has prevented him from doing so; and that it is not possible to obtain copies of money orders from so long ago.

Since there was a question as to the calculation of allowable banking in the Decision of Hearing Officer, this case was continued to the meeting on September 15th in order to obtain clarification from staff.

## VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of June.



B. A proposed amendment to Rules and Regulations Section 7.12(b) authored by Commissioner Marshall.

C. An Order in the case of Coronado v. City and County of San Francisco (U.S. District Court Case No. C-98-2564-VRW) denying plaintiff's claim that the Rent Board had violated his constitutional rights.

D. A letter to Deputy City Attorney Susan Frankel from Fair Housing Coordinator Don Hesse regarding a possible conflict between Ordinance Section 123-93 prohibiting discrimination against families with children and recently enacted Rules and Regulations Section 6.15.

E. An updated list of amendments to the Rent Ordinance.

#### VIII. Director's Report

Executive Director Grubb informed the Commissioners that amendments to the Rent Ordinance restricting owner move-in evictions introduced by Supervisor Bierman will be heard before the Housing and Neighborhood Services Committee on Thursday, August 20th at 10:00 a.m. He also reminded them that Rent Board jurisdiction over certain aspects of Section 8 and other tenant-based rental assistance programs will commence on August 30th.

#### V. Old Business (cont.)

##### B. Rules and Regulations Section 7.12(b) (The "6-Month Rule")

The Commissioners discussed a proposed amendment to the Rules and Regulations authored by Commissioner Marshall which would clarify that, if a tenant moved into a unit within 6 months of the commencement of capital improvement work as well as during the period of the construction, they would not be subject to a capital improvement passthrough based on the cost of such work. Commissioner Marshall will work on language to define the scope of work, and this issue will be calendared for continued discussion at the next Board meeting.

##### C. Rent Increases When There is an Enforceable Absolute Prohibition Against Subletting

The Board discussed proposed Rules and Regulations Section 6.16, authored by Commissioner Lightner in response to an issue brought to the Board by landlord Allan Chase and a tenant in one of his units at the meeting on July 21st. The issue is the tenant's desire to pay an increased rent in order to be granted permission to get a roommate, without the landlord running the risk of being held liable for rent overpayments in the future due to the null and void provisions of Rent Ordinance Section 37.3(b)(5). After discussion, the Commissioners agreed to ask for an opinion from the Office of the City Attorney regarding whether allowing rent increases under such circumstances would be



a valid exercise of the Board's authority, or would require an Ordinance change; and whether the voluntary termination of a tenancy by a tenant and creation of a new tenancy at a higher rent would constitute an unlawful rent increase.

IV. Remarks from the Public (cont.)

D. A landlord stated that he is now afraid to allow his tenants to obtain roommates because it will be construed as a permanent waiver of the absolute prohibition against subletting and assignment in his lease.

E. Landlord Allen Chase expressed his disappointment that the Board failed to act on Commissioner Lightner's proposal, and stated that the tenant at that unit will have to move. He believes that, in a regulatory environment with limited opportunities to raise the rent, he is obligated to take advantage of an opportunity to maximize his profits.

F. Robert Pender of the Tenants' Network stated that it was strange to hear landlords arguing on the basis of what's good for tenants.

G. A individual expressed his concern that there is more expertise regarding rent control on the Commission than in the City Attorney's Office.

H. A landlord chastised the Board for not providing answers to the problem, which he believes the Commissioners owe the public.

I. A landlord stated that he can't understand the problem with enforcing a contract, and that the Commission "knocks landlords down."

IX. New Business

Commissioner Moore asked that a letter be sent to the family of a woman who was a neighborhood activist, and who was recently robbed and killed in the Western Addition. Mr. Grubb will prepare a condolence letter on behalf of the Board.

X. Calendar Items

August 25, 1998 - NO MEETING

September 1, 1998

9 appeal considerations

Old Business:

- A. 1213 B York St. (T001-01A): Report from Staff
- B. "Remarks from the Public" Portion of the Agenda
- C. Rules and Regulations Section 7.12(b) (The "6-Month Rule")

September 8, 1998 - NO MEETING

XI. Adjournment



President Wasserman adjourned the meeting at 9:55 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN

PRESIDENT

Tuesday, 6:00 p.m.,

September 1, 1998

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

POLLY MARSHALL

VICE-PRESIDENT

AGENDA

1/98

I. Call to Order

for copy 1st posted  
DOCUMENTS DEPT.

LARRY BEACH BECKER

II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

III. Approval of the Minutes

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

IV. Remarks from the Public

NEVEO MOSSER

BARTHOLOMEW MURPHY

V. Consideration of Appeals

AUG 28 1998  
SAN FRANCISCO  
PUBLIC LIBRARY

A. 825 Pine St. #12

T001-03R

The tenant appeals the dismissal of his petition due to his failure to appear at the properly noticed hearing.

B. 1830 Taylor St.

T001-02R

The tenant appeals the decision granting certification of capital improvement costs.

C. 412 Texas St.

T001-05A

The tenant appeals the decision granting certification of capital improvement costs.

D. 1441 Clay St. #5 & #12

T001-06A

The landlord appeals the decision denying a claim of decreased housing services but determining rent overpayments.

E. 99 Lupine St. #201 & #301

T001-04 & -06R

Two tenants appeal the decision granting certification of capital improvement costs.

F. 3822 - 19th St. #6

T001-05R

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

G. 553 Sanchez St.

T001-08A



The landlord appeals the decision denying rent increases based on increased operating expenses.

H. 1231 - 11th Ave. #2

T001-07A

The landlord appeals the decision determining liability for rent overpayments.

I. 1451-1/2 Shotwell St.

T001-09A

The landlord appeals the decision determining liability for rent overpayments.

VI. Communications

VII. Director's Report

VIII. Old Business

A. 1213 B York St. (T001-01A; considered on 8/18/98):  
Report from Staff

B. "Remarks from the Public" Portion of the Agenda

C. Rules and Regulations Section 7.12(b) (The "6-Month Rule")

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT  
1/98

Tuesday, September 1, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT  
SEP 10 1998  
SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:11 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Marshall; Mosser;  
Murphy; Wasserman.

Commissioners not Present:

Lightner.

Staff Present:

Grubb; Wolf.

Commissioner Justman appeared on the record at 6:25 p.m.;

Commissioner Moore arrived at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 18, 1998.  
(Becker/Marshall: 5-0)

IV. Remarks from the Public

A. A tenant who filed a Report of Alleged Wrongful Eviction because he believes that his landlord is retaliating against him inquired as to the status of his case.

B. The landlady involved in the case at 1451-1/2 Shotwell St. (T001-09A) expressed her belief that the description of her appeal was stated incorrectly on the Agenda.

C. The attorney for the landlord in the case at 1231 - 11th Ave. #2 (T001-07A) informed the Commissioners that his client has no objection to the matter being continued in order to give the tenant a chance to respond to the landlord's recent submission.

V. Consideration of Appeals

A. 825 Pine St. #12

T001-03R



The tenant's petition alleging substantial decreases in housing services, the landlord's failure to repair and an improperly calculated PG&E passthrough was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant requests another hearing, because a request for postponement had been made three days prior to the hearing. The tenant claims that it was impossible to fax in a written request, and that his pager was inoperable on the day of the hearing.

MSC: To recuse Commissioner Gruber from consideration of this appeal. (Murphy/Marshall: 5-0)

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 5-0)

B. 1830 Taylor St.

T001-02R

The landlords' petition for certification of capital improvement costs was granted, in part, resulting in a monthly passthrough in the amount of \$37.88. The tenant appeals the decision on the grounds that: the penthouse portion of her unit was not been approved for residential use until after the completion of the work; a good deal of the work was necessitated by the landlords' deferred maintenance, which also caused the costs to be greater; the cost of replacing the roof was not fair and reasonable; and the replacement of a back yard area with a concrete patio resulted in a diminution of the value of the property, rather than an improvement.

MSC: To deny the appeal; the tenant is advised that she may file a tenant petition for arbitration if she believes that she has suffered a substantial decrease in housing services due to the change in use of the back yard. (Gruber/Murphy: 5-0)

C. 412 Texas St.

T001-05A

The landlord's petition for certification of the costs of capital improvement work was granted, in part, resulting in a monthly passthrough in the amount of \$70.49. However, costs associated with a new deck below the tenant's unit and adjacent to the landlord's unit were denied, because the hearing officer found that the tenant did not have equal access to and use of the deck. On appeal, the landlord asserts that the deck is freely accessible to both flats through an enclosed, exterior back stairwell; that the tenant committed perjury in claiming that he has to go through a laundry room in order to reach the deck; that documentation of the higher amount requested for exterior painting will be provided upon receipt of a copy of a second check from the bank; and that expenses on the building, including debt service, have increased tremendously.

MSC: To deny the appeal except to remand the case to the hearing officer on the issue of the costs allowed for exterior painting, in light of the additional documentation submitted by the landlord. (Becker/Marshall: 4-1; Gruber dissenting)





D. 1441 Clay St. #5 & #12

T001-06A

The tenant's petition alleging a substantial decrease in housing services was denied because the hearing officer found that the tenant had failed to prove that the value of a garage space that the tenant no longer had use of was more than the \$145.00 compensation that the tenant received from the landlord. However, the landlord was found liable to the tenant in the amount of \$3,048.72 due to unlawful rent increases on the garage. The landlord's petition requesting a determination as to whether the tenant additionally occupies another unit in the building was also denied, as the hearing officer found that the tenant is entitled to the "exclusive use and occupancy" of both units. On appeal, the landlord asserts that the hearing officer erred in finding that the tenant must have abandoned a rental unit in order to have "vacated" it; that a tenant should not be entitled to the protections of the Rent Ordinance on units which the tenant subleases, but does not occupy; that at the time the garage space was separately rented, the Rent Board did not impose the same annual limitations on garage rents that were in effect for residential rental units; that the tenant specifically withdrew her claim of unlawful rent increase; and that the hearing officer erred in failing to calculate allowable banking on the garage.

MSF: To deny the appeal. (Becker/Marshall: 2-3; Gruber, Justman, Murphy dissenting)

MSC: To deny the appeal except to remand the case to the hearing officer on the record to allow the rent increases on the garage that occurred prior to the issuance of the May 1, 1984 Board Decision on Appeal clarifying that rent increases on garages are subject to the same annual rent increase limitations as residential rental units. (Justman/Becker: 5-0)

E. 99 Lupine St. #201 & #301

T001-04 & -06R

The tenant's appeal (unit #301) was filed 18 days late because she was out of the country when the Decision of Hearing Officer was mailed.

MSC: To find good cause for the late filing of the appeal. (Marshall/Becker: 5-0)

The landlord's petition for certification of capital improvement costs was granted only in part. The costs of new windows which proved to be defective and were subsequently replaced were disallowed as being of no benefit to the tenants; the replacement windows were not certified at this time because they are not water-tight and allow for leakage into the units. Two tenants appeal the decision. The tenant in unit #301 objects to certification of any costs connected to either of the window installation projects, which costs were disallowed by the hearing officer; claims that the work was necessitated by the landlord's deferred maintenance; and alleges a continuing leak, despite the fact that a new roof has been installed on the building. The tenants in unit #201 object to the certification of any costs associated with the new windows; complain of long-



standing leaks in their unit; and point out that they paid the passthrough amount originally noticed by the landlord, rather than the amount approved by the hearing officer.

MSC: To deny both appeals. (Murphy/Gruber: 5-0)

F. 3822 - 19th St. #6

T001-05R

The landlords' petition for certification of capital improvement costs to the tenants in eight units was granted, in part, resulting in a monthly passthrough in the amount of \$84.86. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Gruber: 5-0)

G. 553 Sanchez St.

T001-08A

The landlord's appeal was filed one day late because he claims to have attempted to obtain additional information from the hearing officer, and failed to receive a timely response.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Gruber: 5-0)

The landlord's petition for a rent increase based on increased operating expenses was denied because the hearing officer found that the landlord's expenses actually went down from the base year to the comparison year. On appeal, the landlord claims that the hearing officer erred in calculating the amount of the base year loan payments by including payments that were posted but subsequently reversed because the payment checks were drawn against insufficient funds.

MSC: To accept the appeal and remand the case to the hearing officer to sort through the documentation provided to find and allow legitimate costs for the time period when they were incurred; and to allow the costs of the third loan only if it was not renegotiated in order to produce exaggerated results pursuant to Rules and Regulations Section 6.10(a). A hearing will be held only if necessary. (Marshall/Becker: 5-0)

H. 1231 - 11th Ave. #2

T001-07A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$1,699.20. On appeal, the landlord maintains that, out of compassion for the tenant's financial situation, she failed to impose rent increases to which she was entitled; that she acted in good faith and relied on erroneous information from Rent Board staff in calculating the annual increases; that determining the increases to be null and



void results in a forfeiture; and that the decision creates a financial hardship for her.

Since the tenant had not had a chance to respond to a late submission by the landlord, it was the consensus of the Commissioners to continue consideration of this case.

I. 1451-1/2 Shotwell St.

T001-09A

The tenant's petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenant in the amount of \$1,900.00. On appeal, the landlord claims that the tenant fraudulently entered into a lease at a higher rent, as the result of negotiations between the parties to avoid an owner-occupancy eviction. Since the rent increase was found to be null and void, the landlord believes that the lease between the parties should also be found to be of no force and effect, so that the tenancy would revert to month-to-month and she could now evict for owner-occupancy.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from Attorney Robert Copeland asking that the Board file an Amicus Brief in the eviction case in which he is the tenant (R007-43E & R001-34E). Judge Williamson issued an Order Granting Writ of Mandate on July 13, 1998, ruling that the owner, George Hoffberg, could not evict for the use of more than one unit as his principal place of residence. Mr. Hoffberg has petitioned the Court of Appeal for a Writ overturning Judge Williamson's ruling. This issue will be discussed at the next Board meeting.

B. A letter from landlord Allen Chase informing the Board that his tenant has moved out because he was unwilling to waive the absolute prohibition against subletting in his lease without an increase in rent, which flies in the face of the null and void provisions of the Rent Ordinance. The Board has asked the City Attorney for an opinion on this issue.

C. An article from the S.F. Independent regarding the response of the landlord community to recently enacted and proposed restrictions on owner-occupancy evictions.

D. The Complaint in the case of Coronado v. City of S.F. (U.S. District Court Case No. 98-2564 VRW), in which the Commissioners, Hearing Officer Gilbert and the Mayor were individually sued, which was dismissed by Judge Walker.



E. A letter from Attorney Gary Mogil inquiring as to the possibility of collecting attorneys' fees for prevailing in an action before the Rent Board.

VII. Director's Report

Executive Director Grubb informed the Commissioners that legislation placing certain aspects of tenant-based rental assistance programs such as Section 8 under Rent Board jurisdiction went into effect on August 30th. The Board members expressed their unequivocal support for increased staffing in order to provide services to the tenants in these 7,000 units. Additionally, he told them that the office is in the process of hiring a new independent estimator for capital improvement cases, and that landlords are no longer required to pay an estimator fee at the time of filing. Should the services of an estimator become necessary, the fee will be collected at that time.

VIII. Old Business

A. 1213 B York St.

T001-01A

(considered on 8/18/98)

This case involved a Landlord Petition for Extension of Time to do Capital Improvement Work, which was denied by the hearing officer, who found that the landlord had not been acting in good faith. Commissioners Moore and Marshall had requested a report from staff as to whether this would be an appropriate case for referral to the Office of the District Attorney. Deputy Director Wolf informed the Board that she, Hearing Officer Brandon and Senior Hearing Officer Gartzman felt that it was not, especially since the tenants were represented by competent counsel. Ms. Wolf also reported on a meeting that Ms. Gartzman and Supervisor Pedro Ruiz had with Deputy District Attorney David Moon regarding the difficulties involved in criminal prosecutions under the Rent Ordinance. Mr. Moon has volunteered to assist in drafting some possible Ordinance amendments that could be helpful for future criminal prosecutions. Mr. Ruiz will draft a letter to Mr. Moon taking him up on his offer.

B. "Remarks from the Public" Portion of the Agenda

This issue was continued to the meeting on September 15th in order for the Commissioners to review a Confidential Memorandum from the Office of the City Attorney.

C. Rules and Regulations Section 7.12(b) (The "6-Month Rule")

This issue was continued to the September 15th meeting in order for Commissioner Marshall to type up and distribute her proposed amendment.

IV. Remarks from the Public (cont.)







D. The tenant in the case at 1231 - 11th Ave. #2 (T001-07A) asked that consideration of his case be continued to the October 6th meeting in order that he be able to attend.

E. The tenant involved in the case at 1441 Clay Street #5 & #12 (T001-06A) informed the Board that, although unconventional, she really does live in two small units at the subject building. She told the Commissioners not to "feel bad" about letting her retain the two apartments that she has had for 25 years.

F. David Gelman, attorney for the landlord at 1441 Clay Street, expressed his concern that the hearing officer in that case failed to make a determination as to whether the tenant was actually in occupancy at both of the subject units, and seemed to say that a tenant had to actually "abandon" a rental unit in order to trigger vacancy decontrol. He also applauded Executive Director Grubb's prompt response in returning phone calls.

IX. Calendar Items

September 8, 1998 - NO MEETING

September 15, 1998

6 appeal considerations (2 cont. from 8/18/98)

Old Business:

- A. "Remarks from the Public" Portion of the Agenda
- B. Rules and Regulations Section 7.12(b) (The "6-Month Rule")
- C. Litigation Report

September 22 & 29, 1998 - NO MEETINGS

X. Adjournment

President Wasserman adjourned the meeting at 8:15 p.m.





SF  
R52  
#1  
9/15/98

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
September 15, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

**AGENDA**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

A. 1550 Bay St. S001-93R thru S003-53R  
(cont. from 8/18/98)

Sixty tenants appeal the decision granting rent increases based on increased operating expenses.

B. 150 Julian Ave. T001-01R  
(cont. from 8/18/98)

The tenant appeals the denial of a petition alleging an unlawful rent increase.

C. 3009 Mission St. #304 T001-07R

The landlord appeals the decision granting rent reductions due to decreased housing services.

D. 229 Corbett T001-10A

The landlord appeals the decision granting a claim of unlawful rent increases.

E. 2360 Pacific Ave. T001-11A

The landlords appeal the dismissal of their petition seeking certification of capital improvement costs.

F. 753 "C" Webster St. T001-12A

The landlord appeals the decision granting rent reductions due to decreased housing services.





- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - A. "Remarks from the Public" Portion of the Agenda
  - B. Rules and Regulations Section 7.11(b) (The "6-Month Rule")
  - C. Litigation Report
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, September 15, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

5/98  
POLLY MARSHALL  
VICE-PRESIDENT

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I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Lightner; Marshall; Moore;  
Mosser; Wasserman.

Commissioners not Present: Bierly; Gruber; Justman.

Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 1, 1998.  
(Becker/Mosser: 5-0)

IV. Consideration of Appeals

A. 1550 Bay St.

S001-93R thru S003-53R  
(cont. from 8/18/98)

The landlord's petition for rent increases based on increased operating expenses was granted. One tenant appeals the decision on the grounds that, since his tenancy commenced after ownership of the property changed, he should not be subject to the rent increase pursuant to Rules Section 6.10(a). In addition, sixty tenants appeal the decision, asserting that the "anti-speculation clause" {Rules Section 6.10(f)} is applicable to the facts of this case. The landlord had purchased the "unit" or building in 1987, but did not acquire the land until December of 1994. The hearing officer therefore found that since the most recent purchase of the "unit" did not occur within two years of the date of purchase of the unit by the seller of the unit to the current landlord, Rules Section 6.10(f) is inapplicable. The tenants argue that since the definition of "rental unit" in Ordinance Section 37.2(p) specifically includes "the land and appurtenant buildings thereto", the sale and acquisition of the land cannot be ignored, even though the landlord owned the building prior to the acquisition of the land.





Since the tenants had submitted a relevant submission on the afternoon of the meeting, to which the landlord's attorney had not had a chance to respond, at the meeting on August 18th, the Commissioners continued consideration of these appeals.

MSF: To accept the 60 tenant appeals filed by the Tenants' Association and remand the case on the issue of whether the acquisition of the land constituted a transfer, or was merely a refinancing mechanism; and to determine whether a change in the amount of the property taxes would affect the amount of the operating and maintenance expense increase. (Marshall/Becker: 2-3; Lightner, Mosser, Wasserman dissenting)

MSC: To deny the 60 tenant appeals filed by the Tenants' Association asserting the applicability of the "Anti-Spec Clause" (Rules and Regulations Section 6.10(f)) to the Debt Service category of the landlord's petition based on increased operating expenses. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)

MSC: To deny the appeal filed by the tenants in unit D458 on the issue of when they moved into the building. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)

MSC: To deny the appeal filed by the tenant in unit 103 on the issue of ownership of the building. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)

B. 150 Julian Ave.

T001-01R  
(cont. from 8/18/98)

The tenant's petition alleging an unlawful increase in rent from \$540.00 to \$807.30 was denied because the hearing officer found that the tenant had failed to meet her burden of proving that the amount was in excess of allowable annual and banked increases available to the landlord. On appeal, the tenant claims that the sellers could not have told the landlord that increases had not been imposed between 1982 and 1989, because they were not the owners of the property at that time; that the resident manager for the building at that time could confirm that increases had been imposed, but illness has prevented him from doing so; and that it is not possible to obtain copies of money orders from so long ago.

Since there was a question as to the calculation of allowable banking in the Decision of Hearing Officer, this case was continued in order to obtain clarification from staff.

MSC: To deny the appeal. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)



C. 3009 Mission #304

T001-07R

The tenants' petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenants in the amount of \$5,980.00 due to serious habitability problems in the subject unit. On appeal, the landlord states that her representative at the hearing did not have settlement authority nor supporting evidence to refute the tenants' allegations; and that the bookkeeping office has moved, making it difficult to gather supporting records and receipts in support of the appeal.

MSC: To deny the appeal, except that a Technical Correction to the Decision shall be issued by staff. (Becker/Lightner: 5-0)

D. 229 Corbett

T001-10A

The tenant's petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenant in the amount of \$1,331.68. The tenant and landlord had come to an agreement in which the tenant proposed a rent increase of 15% in return for which the landlord forgave rent arrearages owed by the tenant's roommate. The hearing officer determined that the rent increase was not null and void, because it had not been imposed by the landlord, but, rather, the base rent was recalculated to reflect the correct percentage increase the landlord was entitled to at the time. On appeal, the landlord claims that: there was no rent increase from 1993 to 1994; the tenant owes \$900.00 for a security deposit and \$100.00 for a utility bill; and the forgiveness of unpaid rent amounts was conditioned on the increase in rent.

MSC: To accept the appeal and remand the case to the hearing officer on the record in order for the parties to submit evidence regarding amounts that were owing to the landlord from the tenants, and to offset said amounts from the landlord's rent overpayment liability; the landlord is advised that irrelevant information on checks may be redacted in order to protect any privacy concerns that he may have. A hearing will be held only if necessary. (Wasserman/Mosser: 5-0)

E. 2360 Pacific Ave.

T001-11A

The landlords' petition for certification of capital improvement costs was dismissed due to their failure to appear for the properly noticed hearing. The landlords' non-attorney representative had quit and left the country with most of the papers relevant to the petition after the first hearing but before the continued hearing date. The landlords had been out of the country, but returned approximately three weeks prior to the continued hearing date. On appeal, the landlords allege that they failed to receive notice of the hearing, and attach a Declaration of Non-Receipt of Notice of Hearing.



MSC: To accept the appeal and remand the case for a new hearing; every effort will be made to accommodate the tenant in the re-scheduling of this case. (Becker/Lightner: 5-0)

The Commissioners wished the Minutes to reflect the fact that the landlords' representative, Walt Nutters, appears to have acted in an unprofessional manner with regard to this case.

F. 753 "C" Webster St.

T001-12A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,340.00. The landlord had failed to appear at the properly noticed hearing. On appeal, the landlord claims not to have received notice of the hearing, and attaches a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Mosser/Lightner: 5-0)

V. Remarks from the Public

A tenant who lives at 2360 Pacific Ave. (T001-11A) expressed her displeasure at the Board having granted the landlord's request for a new hearing since the landlords knew that their non-attorney representative was quitting at the time of the first hearing on this matter. The tenant had taken off work to attend the first and second hearings, and was assured by the Commissioners that her schedule would be taken into consideration in the scheduling of the remand hearing.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from Eviction Unit Supervisor Pedro Ruiz to Deputy District Attorney David Moon taking him up on his offer of assistance in drafting revisions to the Ordinance that could facilitate more successful criminal prosecutions.

B. The office workload statistics for the month of July, 1998.

C. The annual statistical report for the fiscal year ending June 30, 1998, as well as for prior years.

D. An updated Litigation Status Log.

VII. Director's Report

Executive Director Grubb reported as follows:



A. The annual statistical report clearly demonstrates the enormous increase in the office's workload over the last two years. Mr. Grubb received the Commission's continued support for the additional staffing that will be necessary to continue to provide quality service to the public, and to improve the timeliness of the agency's response.

B. Mr. Grubb informed the Board that legislation sponsored by Supervisor Bierman which will mandate certain restrictions on owner-occupancy evictions will go before the Board of Supervisors for Final Reading on Monday, September 21st, and is expected to go into effect around November 1st. After discussing the necessity of contracting out disability determination hearings pursuant to Ordinance Section 37.9(g) ("The Moratorium"), the Commissioners asked Deputy Director Wolf to draft language amending the Rules and Regulations in order to allow for any such hearings to be conducted by a designee of the Board other than a hearing officer. Upon approval by the Board at the October 6th meeting, the language will be put out for Public Hearing on October 20th.

C. The Director announced the hiring of Andrew Yick and Hillary Winslow in the two new temporary hearing officer positions; they will come on board on October 13th.

#### VIII. Old Business

##### A. "Remarks from the Public" Portion of the Agenda

In light of a Confidential Memorandum from the Office of the City Attorney, the Board decided to continue its current practice of allowing members of the public to address them during the "Remarks" portion of the Agenda, even concerning cases on the calendar.

##### B. Rules and Regulations Section 7.11(b) (The "6-Month Rule")

The Board discussed a proposed amendment authored by Commissioner Marshall, which would make it clear that the limitations on capital improvement passthroughs for tenants who move into the unit within 6 months of the commencement of the work also apply to those units rented during the construction period. Commissioner Lightner preferred that the proposal make clear that the time period is that which is stated in the permit and/or contract documents.

MSC: To put out for Public Hearing on October 20th two versions of a proposed revision to Rules and Regulations Section 7.12(b): one authored by Commissioner Marshall, and one with amendments suggested by Commissioner Lightner. (Marshall/Becker: 5-0)





It was noted for the record that voting to put language out for Public Hearing does not necessarily connote support for the proposal.

IX. Calendar Items

September 22 & 29, 1998 - NO MEETINGS

October 6, 1998

8 appeal considerations (1 cont. from 9/1/98)

X. Adjournment

President Wasserman adjourned the meeting at 8:25 p.m.





SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
October 6, 1998  
25 Van Ness Avenue, #70, Lower Level

**Residential Rent Stabilization  
and Arbitration Board**

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

**AGENDA**

6/98

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

A. 1231 - 11th Ave. #2

T001-07A  
(cont. from 9/1/98)

The landlord appeals the decision determining liability for rent overpayments.

B. 1245 Kearny St. #2F

T001-13A

The landlord appeals the decision granting rent reductions due to the landlord's refusal to allow the tenant to replace a roommate.

C. 306 Eureka St.

T001-08R

The tenant appeals the decision denying the landlord's Petition for Extension of Time to do capital improvement work.

D. 1229 Folsom St.

T001-14A

The landlord appeals the decision granting rent reductions due to decreased housing services.

E. 660 Bush St. #503

T001-09R

The tenants appeal the decision granting a capital improvement passthrough.

F. 1076 - 1078 Capp St.,  
Apts. 2, 3 & 4

T001-10 thru -12R

Three tenants appeal the decision granting capital improvement passthroughs.

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G. 640 Eddy St.

T001-15A

The landlord appeals the decision granting rent reductions to the tenants in two units because of the landlord's failure to provide keys to the front and rear entry gates to the premises.

H. 2807 Bryant St.

T001-13R

The tenant appeals the dismissal of her petition alleging decreased housing services and the landlord's failure to repair due to her failure to appear at the properly noticed hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

Proposed Amendment to the Rules and Regulations Allowing for Disability Determination Hearings to be Contracted Out

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.  
MAYORSHARON K. WASSERMAN  
PRESIDENTTuesday, October 6, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORPOLLY MARSHALL  
VICE-PRESIDENTI. Call to Order

LARRY BEACH BECKER Vice-President Marshall called the meeting to order at 6:07 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVED MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Marshall; Moore;  
Murphy.

Commissioners not Present:

Lightner; Mosser; Wasserman.

Staff Present:

Grubb; Wolf.

Commissioner Justman appeared on the record at 6:30 p.m.

III. Approval of the MinutesMSC: To approve the Minutes of September 15, 1998.  
(Becker/Murphy: 3-0)IV. Consideration of Appeals

A. 1231 - 11th Ave. #2

T001-07A  
(cont. from 9/1/98)

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$1,699.20. On appeal, the landlord maintains that, out of compassion for the tenant's financial situation, she failed to impose rent increases to which she was entitled; that she acted in good faith and relied on erroneous information from Rent Board staff in calculating the annual increases; that determining the increases to be null and void results in a forfeiture; and that the decision creates a financial hardship for her.

Since the tenant had not had a chance to respond to a late submission by the landlord, at the meeting on September 1, 1998, it was the consensus of the Commissioners to continue consideration of this appeal.

MSC: To deny the appeal. (Becker/Marshall: 4-0)

B. 1245 Kearny St. #2F

T001-13A





The tenant's petition alleging a substantial decrease in housing services because of the landlords' refusal to allow her to obtain a replacement roommate was granted, and the landlords were found liable to the tenant in the amount of \$2,911.02. On appeal, the landlords assert that: short-term subletting of the premises to a series of persons who maintain permanent residences outside of the United States does not constitute residential use; the value of the rent reduction should be no more than 25% of the rent, since the tenant sublet for only short periods of time, and not the entire year; the value of the two garage spaces available to the tenant were not impacted by the loss of the right to have a roommate, and their value should be factored in; and the length of time the rent was reduced should be lessened by one month because the tenant's roommate was on the premises for most of the month of November, 1997.

MSC: To deny the appeal except to remand the case to the hearing officer on the record regarding the issue of whether the rent reduction is warranted for the month of November, 1997; a hearing will be held only if necessary. (Becker/Marshall: 4-1; Gruber dissenting)

C. 306 Eureka St.

T001-08R

The landlord's Petition for Extension of Time to Do Capital Improvement Work was denied by the hearing officer. The tenant appeals the denial of the petition on the grounds that: the hearing officer failed to distinguish between "calendar" and "working" days in his estimates of the time it would take for the work to be completed; that the contractor's time estimates were based on incomplete information; and that the required permits are not in place.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Murphy/Justman: 5-0)

MSC: To deny the appeal. (Gruber/Justman: 5-0)

D. 1229 Folsom St.

T001-14A

The landlord's appeal was filed 20 days late because his mail had been placed in a colleague's mailbox inadvertently.

MSC: To find good cause for the late filing of the appeal. (Gruber/Becker: 5-0)

The tenant's petition alleging substantially decreased housing services due to leaks in a back porch area that the tenant uses as a darkroom was granted, and the landlord was found liable to the tenant in the amount of \$4,000.00. The landlord appeals the decision, claiming that the hearing officer erred in finding that the instant leak relates to a problem that originated in 1991, but that the tenant failed to raise in a petition he brought in 1996; that the porch/darkroom



area does not comprise 15% of the floor space in the unit; and that, in fact, no leak exists.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Murphy dissenting)

E. 660 Bush St. #503

T001-09R

The tenants' appeal was filed 6 days late because the tenant, whose first language is not English, claims that he came in to the Rent Board office and was told that he could not file an appeal.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Marshall: 5-0)

The tenants appeal the decision certifying capital improvement costs, claiming that the work was in the nature of repair, and did not constitute capital improvements.

MSC: To deny the appeal. (Murphy/Gruber: 3-2; Becker, Marshall dissenting)

F. 1076 - 1078 Capp St., Apts. 2, 3 & 4

T001-10R thru -12R

Three tenants appeal the decision granting certification of certain capital improvement costs on the grounds that the work was necessitated by the current owner's deferred maintenance, which resulted in code violations.

MSC: To deny the appeals. (Gruber/Murphy: 4-1; Marshall dissenting)

G. 640 Eddy St.

T001-15A

Two tenant petitions alleging substantially decreased housing services due to the landlord's failure to provide keys to the front security gate and alley gate were granted, and the landlord was found liable to the tenants in the amount of \$50.00 per month. On appeal, the landlord asserts that the "fine" is excessive; the calculation used for the time period for the rent reductions is incorrect; and that keys were given to the tenants subsequent to the hearing.

MSC: To deny the appeal; the parties shall make adjustments to the amounts owing from the landlord to the tenants, if necessary.  
(Becker/Marshall: 3-2; Gruber, Murphy dissenting)

H. 2807 Bryant St.

T001-13R

The tenant's petition alleging a substantial decrease in housing services and the landlord's failure to perform requested repairs was dismissed due to her failure to appear at the properly noticed hearing. The tenant appeals, claiming



that she arrived in the vicinity of the Rent Board office in time for the hearing, but could not find a parking space for approximately twenty minutes.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Murphy: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of August, 1998.

B. A letter from Attorney Tim Lee of the Tenderloin Housing Clinic regarding a problem with the wording of Section 37.9(a)(8)(i)(1)(B)(i) ("The Moratorium") regarding the definition of "disability".

C. A letter from a tenant concerning the case at 1550 Bay Street (S001-93R thru S003-53R; considered on 9/15/98), stating that the Assessor's Office and Rent Board appear to have a different understanding as to whether the acquisition of land constitutes a "transfer" within the meaning of the "Anti-Spec Clause" {Rules and Regulations Section 6.10(f)}.

#### VI. Old Business

Disability Determinations Pursuant to "The Moratorium" {Ordinance Section 37.9(a)(8)(i)(1)(B)(i)}

The Board reviewed the following draft language prepared by the Deputy Director which would allow for disability determination hearings pursuant to Ordinance Section 37.9(a)(8)(i)(1) to be conducted by a designee of the Rent Board other than a Hearing Officer:

#### **Section 11.10 Time of Hearing; Consolidation** (additions underlined)

Within a reasonable time following the filing of a petition and payment of the estimator fee, if required, the petition shall be referred to a hearing officer. If the petition is for a determination of disability pursuant to Ordinance Sections 37.9(i)(1)(B)(i) and (ii), such hearing may be conducted by a hearing officer or other designee of the Rent Board. That hearing officer shall hold the hearing within forty-five (45) days of the date of the filing of the petition. Where petitions are filed by or for tenants of a single housing complex, and there are common material issues of law or fact, those petitions shall be consolidated for hearing, unless to do so would be unfair to either party. Written notice of the hearing, by mail, shall be given at least ten (10) days prior to the date of the hearing. A declaration under penalty of perjury stating the date and place of the mailing of such notice and stating to whom and at what addresses the notice was sent shall be retained in the file of each case.

The Commissioners also discussed an issue raised by Attorney Tim Lee of the Tenderloin Housing Clinic. Mr. Lee is currently representing a tenant in an



unlawful detainer action who is 82 years of age and, allegedly, disabled. She is on SSI due to her age and, therefore, the Social Security Administration has made no determination of disability in her case. Since the Ordinance provides that a tenant may show disability by either a determination by SSI/SSP or "any other method of determination as approved by the Rent Board", and the Rent Board does not yet have such a "method" in place, it is possible that a tenant could be precluded from submitting medical or other evidence of disability in a court case. Mr. Lee proposed possible language to rectify this problem to which the Board made certain modifications, and which follows below:

**PROPOSED NEW SECTION 12.14(d):**

(d) In determining whether a tenant is disabled as defined under Section 37.9(a)(8)(i)(1)(B)(i), a finder of fact shall consider relevant evidence, including:

- (1) findings by any government entity concerning a disability;
- (2) testimony concerning the disability; and
- (3) medical evidence concerning the disability.

MSC: To put out proposed amendments to Rules and Regulations Section 11.10 and new Section 12.14(d) for Public Hearing on October 20, 1998. (Becker/Marshall: 5-0)

VII. New Business

Commissioner Gruber expressed his concern regarding the departmental budget, especially in light of the greatly increased workload and the fact that the rental unit fee will remain the same for this fiscal year.

VIII. Calendar Items

October 13 1998 - NO MEETING

October 20, 1998

5 appeal considerations  
6:00 Public Hearing: Rules Sections 7.12(b); 11.10; and 12.14(d)

October 27, 1998 - NO MEETING

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:40 p.m.







OCT 13 1998

SAN FRANCISCO  
PUBLIC LIBRARY

WILLIE L. BROWN, JR.

MAYOR

October 8, 1998

JOSEPH GRUBB

EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER

PRESIDENT

SHARON K. WASSERMAN

VICE-PRESIDENT

# NOTICE OF PUBLIC HEARING

120/98

DATE:	October 20, 1998
TIME:	6:00 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70 Lower Level SAN FRANCISCO, CALIFORNIA

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY J. JUSTMAN

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE WHICH AFFECTS SEVERAL DIFFERENT SECTIONS. THE FIRST PROPOSED AMENDMENT IS TO SECTION 7.12(b) AND IS INTENDED TO CLARIFY EXISTING RENT BOARD POLICY AS TO WHEN A TENANT WOULD NOT BE SUBJECT TO A CAPITAL IMPROVEMENT PASSTHROUGH PURSUANT TO THE "SIX MONTH RULE". TWO DIFFERENT VERSIONS HAVE BEEN PROPOSED BY THE COMMISSION FOR THE PUBLIC'S CONSIDERATION.

THE SECOND PROPOSED AMENDMENT IS TO SECTION 11.10. THIS AMENDMENT CLARIFIES THAT PETITIONS FILED FOR THE PURPOSE OF DETERMINING DISABILITY PURSUANT TO ORDINANCE SECTIONS 37.9(i)(1)(B)(i) AND (ii) ("THE MORATORIUM") MAY BE CONDUCTED BY A DEPARTMENTAL HEARING OFFICER OR ANY OTHER DESIGNEE OF THE DEPARTMENT.

THE THIRD PROPOSED AMENDMENT ADDS SECTION 12.14(d). THIS AMENDMENT ALLOWS A FINDER OF FACT IN A HEARING FOR THE PURPOSE OF DETERMINING DISABILITY PURSUANT TO ORDINANCE SECTIONS 37.9(i)(1)(B)(i) AND (ii) ("THE MORATORIUM") TO CONSIDER VARIOUS TYPES OF MEDICAL EVIDENCE, INCLUDING GOVERNMENTAL FINDINGS, PERSONAL TESTIMONY AND MEDICAL REPORTS.

OVER, PLEASE



10/15  
**PAGE 2**

**PUBLIC HEARING NOTICE**

**SECTIONS 7.12(b); 11.10; and 12.14(d)**

You may either comment at the public hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the department no later than **5 p.m. on Wednesday, October 14, 1998**, so that the Commissioners can be mailed your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. **12 copies** of your comments must be submitted for the Commissioners. You will be able to address the Commissioners during the public comment period at the hearing. The Commission may impose a three minute rule on individual testimony.



1 either party. Written notice of the hearing, by mail, shall be given at least ten (10) days  
2 prior to the date of the hearing. A declaration under penalty of perjury stating the date  
3 and place of the mailing of such notice and stating to whom and at what addresses the  
4 notice was sent shall be retained in the file of each case.

5 **PROPOSED TEXT OF SECTION 12.14(d) READS AS FOLLOWS:**  
6 **(This section is entirely new)**

7 (d) In determining whether a tenant is disabled as defined under  
8 Section 37.9(a)(8)(i)(1)(B)(i), a finder of fact shall consider relevant evidence,  
9 including:

- 10 (1) findings by any government entity concerning a disability;  
11 (2) testimony concerning the disability; and  
12 (3) medical evidence concerning the disability.

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**CURRENT TEXT OF 7.12(b) READS AS FOLLOWS:**  
Additions are Underlined

(b) Effect of Vacancy on Rent Increases Requested for Capital  
Improvements

If a unit becomes vacant and is rerented after completion of capital improvements, rehabilitation, and/or energy conservation work listed in an application for certification, no additional rent will be allowed on the unit based on the improvements or work since the landlord has the opportunity to bring the unit up to market rent at the time the unit is rerented. This section also applies to those units rented within six months of the commencement of work for which an application for certification is filed, provided that ownership has not changed in that period.

**PROPOSED TEXT FOR 7.12(b) WOULD READ AS FOLLOWS:**

**Version One:**

If a unit becomes vacant and is rerented after completion of capital improvements, rehabilitation, and/or energy conservation work listed in an application for certification, no additional rent will be allowed on the unit based on the improvements or work since the landlord has the opportunity to bring the unit up to market rent at the time the unit is rerented. This section also applies to those units rented during the construction period for the project of which the work is a part, or within six months of the commencement of work for which an application for certification is filed, provided that ownership has not changed in that period.

**Version Two:**

If a unit becomes vacant and is rerented after completion of capital improvements, rehabilitation, and/or energy conservation work listed in an application for certification, no additional rent will be allowed on the unit based on the improvements or work since the landlord has the opportunity to bring the unit up to market rent at the time the unit is





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1 rerented. This section also applies to those units rented during the construction period for  
2 the project of which the work is a part, as stated in the permit and/or contract documents,  
3 or within six months of the commencement of work for which an application for certification  
4 is filed, provided that ownership has not changed in that period.

5 **CURRENT TEXT OF 11.10 READS AS FOLLOWS:**

6 **Section 11.10 Time of Hearing: Consolidation**  
7 **(Amended September 19, 1989)**

8 Within a reasonable time following the filing of a petition and payment of  
9 the estimator fee, if required, the petition shall be referred to a hearing officer. That  
10 hearing officer shall hold the hearing within forty-five (45) days of the date of the filing of  
11 the petition. Where petitions are filed by or for tenants of a single housing complex, and  
12 there are common material issues of law or fact, those petitions shall be consolidated for  
13 hearing, unless to do so would be unfair to either party. Written notice of the hearing,  
14 by mail, shall be given at least ten (10) days prior to the date of the hearing. A  
15 declaration under penalty of perjury stating the date and place of the mailing of such  
16 notice and stating to whom and at what addresses the notice was sent shall be retained  
17 in the file of each case.

18 **PROPOSED TEXT OF SECTION 11.10 READS AS FOLLOWS:**

19 Within a reasonable time following the filing of a petition and payment of  
20 the estimator fee, if required, the petition shall be referred to a hearing officer. If the  
21 petition is for a determination of disability pursuant to Ordinance Sections  
22 37.9(i)(1)(B)(i) and (ii), such hearing may be conducted by a hearing officer or other  
23 designee of the Rent Board. That hearing officer shall hold the hearing within forty-five  
24 (45) days of the date of the filing of the petition. Where petitions are filed by or for  
25 tenants of a single housing complex, and there are common material issues of law or  
26 fact, those petitions shall be consolidated for hearing, unless to do so would be unfair to  
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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
October 20, 1998

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

20/98

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERRIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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A. 1364 Broadway St. T001-16A

The landlord of a Newly Covered Unit under Proposition I appeals the decision determining rent overpayments.

B. 4253 - 18th St. T001-16A

The landlord appeals the decision granting a claim of decreased housing services.

C. 7427 Geary Blvd. #3 T001-14R

The tenant appeals the decision only partially granting claims of decreased housing services.

D. 455 Euclid Ave. #301 T001-15R

The tenant appeals the decision granting rent increases based on increased operating expenses and certifying capital improvement passthroughs on the grounds of financial hardship.

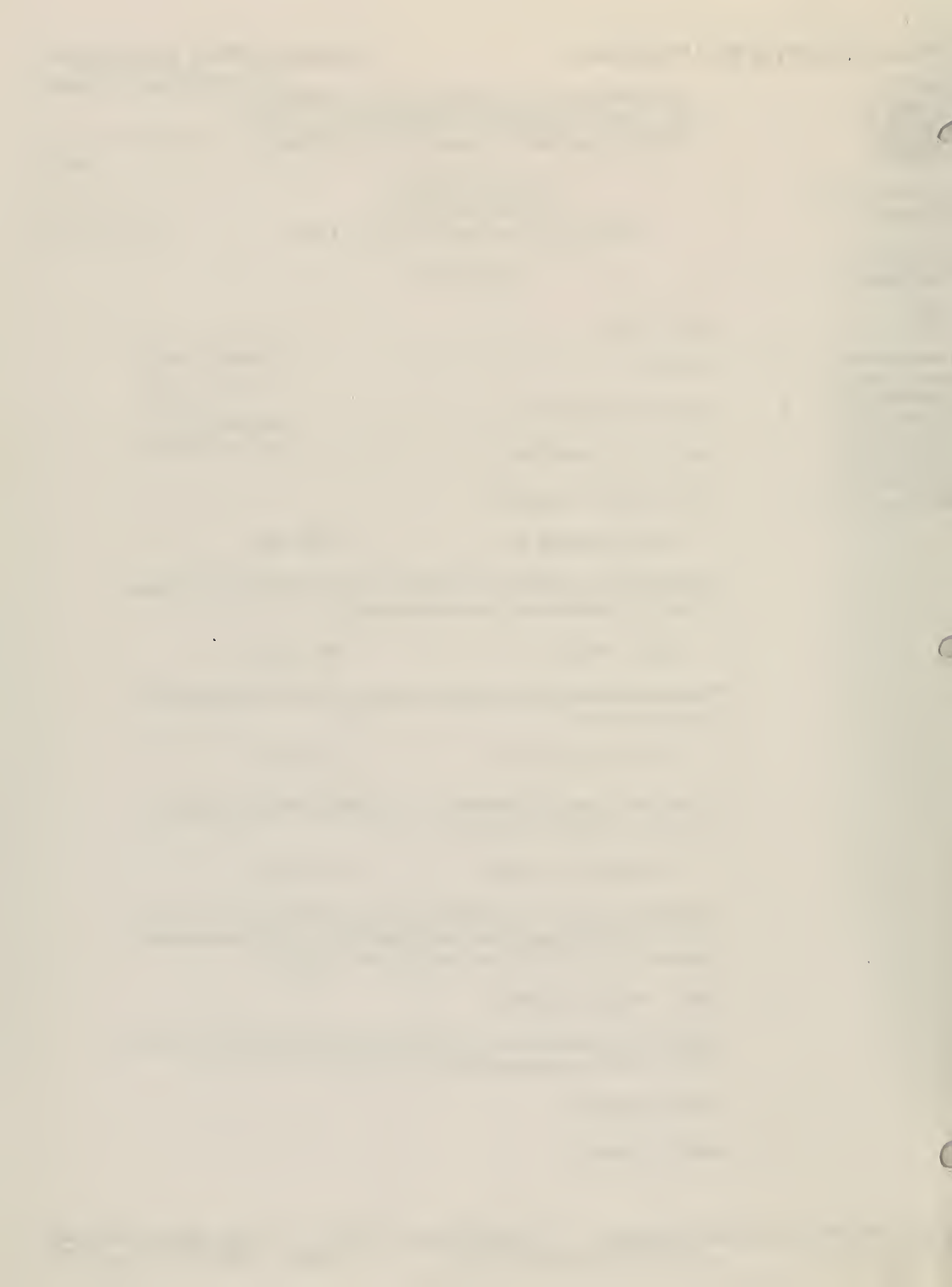
VI. 6:00: Public Hearing

Proposed Amendments to Rules and Regulations Sections 7.12(b); 11.10; and Proposed New Section 12.14(d)

VII. Communications

VIII. Director's Report





- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, October 20, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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20/98  
SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Marshall;  
Mosser; Murphy; Wasserman.

Commissioners not Present:

Moore.

Staff Present:

Grubb; Wolf.

Commissioner Justman appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 6, 1998.  
(Becker/Lightner: 5-0)

IV. Consideration of Appeals

A. 1364 Broadway St.

T001-16A

The landlord's petition for certification of capital improvement costs to the tenants in this "Newly Covered Unit" under Proposition I was granted. However, the landlord was found liable to the tenant in one unit for rent overpayments in the amount of \$4,026.40. On appeal, the landlord claims that she had mistakenly depicted the tenant as a subtenant of her prior tenants when, actually, he had not occupied the unit until after the prior tenants had vacated.

MSC: To accept the appeal and remand the case to the hearing officer on the issue of the tenant's rent history; a hearing will be held only if necessary. (Becker/Gruber: 5-0)

B. 4253 - 18th St.

T001-16A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$480.00. On appeal, the landlord claims that: the tenants lack "standing" because they are subtenants who have moved out of the unit prior to issuance







of the decision; the original tenants rented the unit on an "as-is" basis and, since these tenants were not on the premises at that time, the decision is based on hearsay; there is an error as to the number of months during which the rent reduction is warranted; the amounts granted for the conditions are excessive; and the hearing officer should have taken into account the fact that the tenants failed to properly ventilate the unit, which was the cause of the mildew and peeling paint problem.

MSC: To deny the appeal except to remand the case to the hearing officer to issue a Technical Correction regarding the number of months for which a rent reduction was granted.  
(Becker/Lightner: 5-0)

C. 7427 Geary Blvd. #3

T001-14R

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$113.33 due to inoperable windows and peeling paint on the premises. However, the petition was denied as to all other complaints raised by the tenant. The tenant appeals, claiming that the hearing officer erred in finding that his failure to clean the refrigerator caused it to malfunction; that a Notice of Violation procured after the hearing proves that the smoke detector is defective; that the hallway lighting is very dim and dangerous; and that he does not drop garbage from his unit into the garbage area and, thus, does not contribute to the problem.

MSC: To deny the appeal. (Wasserman/Gruber: 5-0)

D. 455 Euclid Ave. #301

T001-15R

The landlords' petition for rent increases based on increased operating expenses and certification of capital improvement costs was granted. One tenant appeals the portion of the decision granting a capital improvement passthrough on the grounds of financial hardship.

MSC: To accept the tenant's appeal and remand the case for a hearing on the tenant's claim of financial hardship, only if the parties cannot settle the matter. (Becker/Lightner: 5-0)

#### V. Remarks from the Public

The landlord involved in the case at 7427 Geary (T001-14R) informed the Commissioners that she has installed a brand new smoke detector in the tenant's unit, even though the old one was in working condition.

#### VI. Public Hearing

Proposed Amendments to Rules and Regulations Sections 7.12(b) and 11.10; and Proposed New Section 12.14(d)



No individuals appeared to testify regarding any of the proposed Rules changes. The amendment to Section 11.10 clarifies that petitions filed for purposes of determining disability pursuant to Ordinance Sections 37.9(i)(1)(B)(i) and (ii) ("The Moratorium") may be conducted by a departmental hearing officer or any other designee of the department. New Section 12.14(d) allows a finder of fact in any such hearings to consider various types of medical evidence, absent a determination of disability by the Social Security Administration or Rent Board. Amended Section 11.10 and new Section 12.14(d) read as follows below:

**Section 11.10 Time of Hearing; Consolidation**

(Amended September 19, 1989; and October 20, 1998)

Within a reasonable time following the filing of a petition and payment of the estimator fee, if required, the petition shall be referred to a hearing officer. If the petition is for a determination of disability pursuant to Ordinance Sections 37.9(i)(1)(B)(i) and (ii), such hearing may be conducted by a hearing officer or other designee of the Rent Board. That hearing officer shall hold the hearing within forty-five (45) days of the date of the filing of the petition. Where petitions are filed by or for tenants of a single housing complex, and there are common material issues of law or fact, those petitions shall be consolidated for hearing, unless to do so would be unfair to either party. Written notice of the hearing, by mail, shall be given at least ten (10) days prior to the date of the hearing. A declaration under penalty of perjury stating the date and place of the mailing of such notice and stating to whom and at what addresses the notice was sent shall be retained in the file of each case.

**Section 12.14 Evictions under Section 37.9(a)(8)**

(Amended June 18, 1991; Subsection (c) amended March 7, 1995; Subsection (d) added October 20, 1998)

(d) In determining whether a tenant is disabled as defined under Section 37.9(i)(1)(B)(i), a finder of fact shall consider relevant evidence, including:

- (1) findings by any government entity concerning a disability;
- (2) testimony concerning the disability; and
- (3) medical evidence concerning the disability.

MSC: To adopt the proposed amendment to Rules and Regulations Section 11.10 and new Rules and Regulations Section 12.14(d). (Becker/Lightner: 5-0)

The proposed amendment to Rules Section 7.12(b) is intended to clarify that a tenant who moves into a unit within six months of commencement of capital improvement work, during the construction period, or after the work has been completed shall not be subject to a capital improvement passthrough based on the costs of such work. After discussion, the Board passed proposed Version Two, as amended, which follows below:

**(b) Effect of Vacancy on Rent Increases Requested for Capital Improvements**

If a unit becomes vacant and is rerented after completion of capital improvements, rehabilitation, and/or energy conservation work listed in an application



for certification, no additional rent will be allowed on the unit based on the improvements or work since the landlord has the opportunity to bring the unit up to market rent at the time the unit is rented. This section also applies to those units rented during the construction period for the project of which the work is a part, as stated in the permit(s), contract document(s), and/or as shown by other relevant evidence, or rented within six months of the commencement of work for which an application for certification is filed, provided that ownership has not changed in that period.

MSC: To adopt proposed Version Two, as amended, of Rules and Regulations Section 7.12(b). (Gruber/Marshall: 5-0)

## VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Summary of Mediated Move-Out Agreements for the months of July through September, 1998.

B. The 1998-99 Bond Measure Passthrough Worksheet.

## VIII. Director's Report

Executive Director Grubb let the Board know that he will be in Australia for slightly over three weeks commencing October 22nd and returning November 16th. Deputy Director Wolf will be acting in his stead. He also informed them that, if Proposition G passes on the November 3rd ballot, it will be effective 30 days after the election. Since certain of its provisions appear to conflict with the recently enacted Bierman legislation, the City Attorney's Office would then have to determine which would prevail.

## IX. Calendar Items

October 27 & November 3, 1998 - NO MEETINGS

November 10, 1998

7 appeal considerations

November 19, 1998

Old Business: Costa-Hawkins

## X. Adjournment

President Wasserman adjourned the meeting at 7:25 p.m.





SF  
R52  
#1  
11/10/98

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
November 10, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

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- LARRY BEACH BECKER
- SHIRLEY A. BIERLY
- DAVID GUSTAV GRUBER
- ANTHONY JUSTMAN
- MERRIE T. LIGHTNER
- EVERETT Q. MOORE
- NEVEO MOSSER
- BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 6678 Third St. #C T001-20R

The landlord's petition for a rent increase based on comparable rents was denied; one tenant appeals the determination of his base rent.

B. 1280 Pine St. #401 T001-17R

The tenant appeals the hearing officer's determination that a capital improvement passthrough should be deferred, rather than denied, based on his financial hardship.

C. 257-259 So. Van Ness Ave. T001-20A

The landlord appeals the denial of his petition for exemption from the Ordinance based on substantial rehabilitation of the premises.

D. 234 Guerrero St. T001-18A  
(rescheduled from 10/20/98)

The landlord appeals the decision granting a claim of decreased housing services.

E. 386 Fair Oaks T001-48R

The tenant appeals the decision granting rent increases based on increased operating expenses and certification of capital improvement costs.







F. 2057 - 15th St. #C

T001-19R

The tenant appeals the dismissal of his petition due to his failure to appear at the properly noticed hearing.

G. 801 - 25th Ave. #19

T001-21A

The landlord appeals the decision determining an unlawful rent increase due to the landlord's failure to comply with the provisions of Rules and Regulations Section 6.14.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

Tuesday, <sup>November 10,</sup> October 20, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

II. Roll Call

Commissioners Present: Becker; Justman; Marshall; Moore;  
Wasserman.

Commissioners not Present: Bierly; Murphy.

Staff Present: Wolf.

Commissioner Gruber appeared on the record at 6:13 p.m.; Commissioner Lightner appeared at 6:18 p.m.; and Commissioner Mosser arrived at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 20, 1998 with a correction to show that Commissioner Justman arrived at the meeting at 6:40, rather than 5:40, p.m. (Becker/Marshall: 3-0)

IV. Consideration of Appeals

A. 6678 Third St. #C

T001-20R

The tenant's appeal was filed 26 days late because the tenant claims he failed to realize that the base rent amount in the original Decision of Hearing Officer was in error until he received the subsequent Technical Correction to the Decision.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Becker: 4-0)

The landlord's petition for a rent increase to the tenant in this unit based on comparable rents for Newly Covered Units under Proposition I was denied because the landlord failed to prove that the rent for the unit was set low due to extraordinary circumstances. The tenant claims, on appeal, that the landlord should not be entitled to the banked increases enumerated in the Technical Correction to the Decision because his rent had been increased \$30.00 for a parking space that he had always had the use of for no additional rent.



MSC: To accept the appeal and remand the case for a hearing on the issue of the tenant's rent history, particularly with regard to the parking space. (Becker/Marshall: 5-0)

B. 1280 Pine St. #401

T001-17R

The landlord's petition for rent increases based on increased operating expenses and certification of capital improvement costs was granted. The tenant in one unit filed an appeal on the grounds of financial hardship, which was remanded for hearing. In the Decision on Remand, the hearing officer found that the tenant had demonstrated sufficient hardship to warrant deferral of the approved amounts only until January 1, 1999. On appeal, the tenant claims that there are many inaccuracies in the Decision of Hearing Officer and that he has demonstrated sufficient hardship to warrant permanent deferral of the increases.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

C. 257-259 So. Van Ness Ave.

T001-20A

The landlord's petition for exemption from the Ordinance based on substantial rehabilitation of the building or, in the alternative, certification of capital improvement costs was denied because the hearing officer found that the landlord had failed to establish what work was done; when the work was completed; the costs; and whether the work was paid for. On appeal, the landlord asserts that: while the categorization of expenses provided may be confusing, it is supported by invoices, proposals and copies of over 175 checks, and could be reconciled by a Certified Public Accountant, which the landlord is willing to provide; based on an incorrect sampling of plumbing and painting expenses, the hearing officer incorrectly concluded that the remaining expenditures need not be reviewed; the standard of "reasonable evidence" should be applied; and, since the premises were substantially rehabilitated and extensive capital improvements were made, total denial of the petition is unjust.

MSC: To deny the landlord's appeal as to the claim of exemption from the Ordinance due to substantial rehabilitation of the premises. To accept the appeal in order to provide the landlord with another opportunity to properly document capital improvement costs; the hearing officer shall issue a Post-Appeal Order prior to the remand hearing with specific instructions as to what the landlord must provide in order to meet his burden of proof. (Justman/Becker: 4-1; Gruber dissenting)

D. 234 Guerrero St.

T001-18A

(rescheduled from 10/20/98)

The tenant's petition alleging substantial decreases in housing services due to the loss of use of the back yard for her dogs and a reduction in the amount of



storage space was granted, and the landlord was found liable to the tenant in the amount of \$6,272.26. On appeal, the landlord asserts that the unsupervised behavior of the tenant's dogs led to revocation of the back yard privileges; that the tenant's depiction that she gave up a rent-free apartment in order to move into the subject premises is not entirely accurate; that the dogs had access to a grass and dirt area in addition to a concrete patio; that the tenant unreasonably delayed in filing her petition, resulting in prejudice to the landlord; that the amount granted to the tenant presents the landlord with a financial hardship; and that the tape recording of the hearing is, in part, inaudible.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Moore/Justman: 5-0)

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing. (Lightner/Gruber: 5-0)

E. 386 Fair Oaks

T001-84R

The landlord's petition for a rent increase to the tenants in one unit based on increased operating expenses and certification of capital improvement costs was granted. The tenants appeal, asserting that the capital improvements were effectuated long before the petition was filed and that the landlord is merely trying to increase the rent to market value.

MSC: To deny the appeal. (Becker/Gruber: 5-0)

F. 2057 - 15th St. #C

T001-19R

The tenant's petition alleging substantial decreases in housing services, the landlord's failure to repair and unlawful increases in rent was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant provides documentation of the fact that he was in Germany for three months at the time of the subject hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

G. 801 - 25th Ave. #19

T001-21A

The tenant's petition alleging a substantial decrease in services and an unlawful increase in rent was granted, in part. The tenant's habitability complaints were found not to be substantial, in that the conditions were remedied within a reasonable period of time after notification to the landlord. However, a rent increase from \$700 to \$950 on the basis that there was a new tenancy was determined to be null and void in that the landlord had not complied with the provisions of Rules and Regulations Section 6.14. On appeal, the landlord asserts that: the resident manager was unaware of the tenant's presence in the unit, and would so testify; the tenant deliberately attempted to hide her presence in the unit; there is no evidence that the landlord





had waived the prohibition against subletting and assignment in the lease; and the rent had been properly raised to \$712.50.

MSC: To accept the appeal and remand the case to the hearing officer on the issues of the proper base rent amount and whether this was a new, or continuing, tenancy.  
(Justman/Gruber: 5-0)

V. Remarks from the Public

A landlord inquired as to his remedies in the following situation: one of his tenants has sublet a parking space for which she pays \$25.00 to an individual who does not live in the building and whom she is charging \$80.00. A representative for the landlord involved in the case at 801 - 25th Ave. #19 (T001-21A) commended the Commissioners for doing a good job and being "passionate" about what they do.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memo from the Deputy Director regarding the Commissioners' Holiday Party, which will be held at the South End Rowing Club on December 13th from 2:00 p.m. to 6:00 p.m.

B. An invitation from Mayor Brown to a commemoration of the lives of Mayor George Moscone and Supervisor Harvey Milk to be held on November 24th from noon to 1:30 p.m. at the Opera House.

VII. Director's Report

In the absence of Executive Director Grubb, who was on vacation, Deputy Director Wolf reported as follows:

A. Raquel Fox, attorney with the Tenderloin Housing Clinic, phoned to report that her client, an 82-year-old woman who has lived in her unit for 7 years and is on SSI due to her age, prevailed in the owner move-in eviction action filed by her landlord. Partly in response to issues raised by this case, the Board had passed new Rules and Regulations Section 12.14(d) after a Public Hearing on October 6th. The new regulation made it clear that, absent a disability determination by the Social Security Administration or Rent Board, a finder of fact could consider various types of medical evidence to determine whether an individual qualified as "protected" pursuant to Ordinance Sections 37.9(i)(1)(B)(i) and (ii) ("The Moratorium"). Ms. Fox thanked the Board for their efforts in this matter.

B. Ms. Wolf outlined some of the issues currently before staff due to the passage of Proposition G on the November 3rd ballot. It appears that the



Initiative will take effect around mid-December. The Board may need to amend the Rules and Regulations, depending on anticipated court action. The Office of the City Attorney is currently looking at conflicts between the language of Proposition G and the recently enacted Bierman amendments to Rent Ordinance Section 37.9(a)(8).

VIII. Calendar Items

November 17, 1998 - NO MEETING

November 19, 1998

Old Business: Costa-Hawkins (Civil Code Section 1954.53)

December 1, 1998

6 appeal considerations

Old Business: Minute Order Program

IX. Adjournment

President Wasserman adjourned the meeting at 7:45 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

JOSEPH GRUBB

EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
PRESIDENT

Thursday, 6:00 p.m.,

November 19, 1998

25 Van Ness Avenue, Suite 320

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

NOV 19 1998

SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Old Business

Costa-Hawkins (Civil Code Section 1954.53)

- VI. Communications
- VII. Director's Report
- IV. Remarks from the Public (cont.)
- VIII. New Business
- IX. Calendar Items
- X. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

9/78  
SHARON K. WASSERMAN  
PRESIDENT

Tuesday, November 19, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

DOCUMENTS DEPT.

DEC 14 1998

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:15 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioners Present:

Becker; Bierly; Gruber; Justman; Lightner;  
Marshall; Moore; Wasserman.

Commissioners not Present:

Mosser; Murphy.

Staff Present:

Grubb; Wolf.

Roll Call

III. Approval of the Minutes

MSC: To approve the Minutes of November 10, 1998, as corrected to  
properly reflect the date of the meeting. (Gruber/Marshall: 5-0)

IV. Old Business

Costa-Hawkins (Civil Code Section 1954.53)

The Board discussed remaining implementation issues and possible amendments to the Ordinance and Rules and Regulations necessitated by the passage of the Costa-Hawkins Rental Housing Act in 1995 with Deputy City Attorney Marie Blits. In a Memorandum dated June 15, 1998, the Deputy Director had framed certain questions for the Board's consideration. At their meeting on June 23, 1998, the Board reached a consensus as to the following questions: single family dwellings with in-law units, whether legal or illegal, constitute two-unit buildings and will not become exempt; likewise, if there is another structure on the same lot as a single family dwelling, then the home is not "alienable separate from the title to any other dwelling unit" because it cannot be sold separately, and it will not become exempt; the rental unit fee will continue to be collected on units which are partially exempted by Costa-Hawkins as they will still be subject to eviction limitations under the Ordinance; in a mixed-use building with residential and commercial units, the commercial units will not be counted, unless they are used for residential purposes and therefore constitute a "dwelling unit"; and, since a decrease in housing services is defined in the Ordinance as a rent increase, tenants in units affected by





Costa-Hawkins will be precluded from filing petitions alleging decreased housing services and/or failure to repair.

Areas that required additional discussion and/or assistance from the City Attorney include: 1) are life-time leases issued pursuant to a condominium conversion under the Subdivision Code affected in any way?; 2) what is the status of tenancies in rooms that are separately rented in a single family dwelling?; 3) since the legislation does not affect the City's "authority to regulate or monitor the basis for eviction", to what extent will allegations of wrongful eviction in affected units be investigated, especially with regard to retaliatory rent increases?; 4) what constitutes "serious health, safety, fire or building code violations" sufficient to override exemption of the substandard unit, and does this apply to the "setting of initial rent" in a non-vacancy control jurisdiction such as San Francisco?; and 5) likewise, how does the provision in Section 1954.53(a)(1) which allows for setting of the initial rent only if the previous tenancy was not terminated apply in a jurisdiction with "Just Cause" eviction?

As to a Memorandum prepared by Ms. Blits regarding the above questions, the Board voted as follows:

MSC: To waive the confidentiality of the Memorandum provided by the Office of the City Attorney. (Becker/Gruber: 5-0)

It was agreed that amendments to the definition of "rental unit" in the Ordinance are necessary to indicate that single family dwellings and condominiums are exempt as of January 1, 1999 from rent regulation, but not eviction control; with language to distinguish tenancies that commenced prior to January 1, 1996 from those that commenced on or after that date. Additionally, language will need to be drafted that clarifies what constitutes a dwelling or unit that is "alienable separate from the title to any other dwelling unit" in this context (i.e., commercial units are not counted, however, a house with a cottage on the same lot that cannot be sold separately will not be exempt, etc.)

The Commissioners then discussed the above questions in order:

1) The Executive Director agreed to alert Department of City Planning staff to the provisions of Costa-Hawkins in order that they might pursue the question of whether the Subdivision Code's limitations on rent increases are in contravention of State law.

2) As to rooms in a single family dwelling that are not separately alienable, but are rented out as separate rental units, the Commissioners discussed the possibility of following the same standard as that used to define a "boarding house": 5 or less separate units constitutes a boarding house; a dwelling with 6 or more units is considered a hotel. Definitional language would also have to distinguish between separate tenancies and those where roommates are jointly and severally liable for the rent.



3) Current procedures with respect to the processing of eviction reports could remain unchanged in that the issue of retaliatory rent increases is currently within the purview of the courts, and would be likely to remain so.

4 & 5) Neutral Commissioners Justman and Wasserman articulated their belief that the legislation cannot be interpreted to implement a vacancy control scheme where none had existed before. However, as pointed out by Commissioner Marshall, there is nothing in the legislation to prohibit a return to the vacancy decontrol/recontrol scheme currently in effect for all covered units for those units with outstanding code violations or where the prior tenancy was terminated. Landlord Attorney Dennis Hyde pointed out that such an interpretation would provide landlords with an incentive to issue 3-day rather than 30-day notices of termination; it would also require that the Rent Board implement a procedure to track and monitor the reasons that tenants are evicted and pursuant to what type of notice. This issue was continued in order for the Commissioners to consult with their respective constituencies.

These issues will be discussed further at the meeting on December 15th, in conjunction with draft language to be provided by the Deputy City Attorney.

#### V. Communications

The Commissioners received a current Litigation Log showing the status of outstanding Writs filed against the agency.

#### VI. Calendar Items

November 24, 1998 - NO MEETING

December 1, 1998

6 appeal considerations

Old Business:

A. Minute Order Program

B. Costa-Hawkins (Civil Code Section 1954.53)

#### X. Adjournment

President Wasserman adjourned the meeting at 8:55 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, 6:00 p.m.,  
December 1, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

POLLY MARSHALL  
VICE-PRESIDENT

AGENDA

I. Call to Order

LARRY BEACH BECKER

II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1700 Page St. #1 & #7

T001-21 thru -23R;  
T001-24A

Two tenants appeal the decision certifying capital improvement costs; one on the basis of financial hardship.

B. 948 "A" Rhode Island St.

T001-22A

The landlord appeals the denial of a Petition for Extension of Time To Do Capital Improvement Work

C. 849 North Point St.

T001-23A

The landlord asks that the Board determine the proper base rent for one unit in the building that was subject to a petition for certification of capital improvement costs.

D. 653-657 Bay St.

T001-24 thru -26R

Three tenants appeal the decision granting the Landlord's Petition for Extension of Time To Do Capital Improvement Work.

E. 2471 Bryant St.

T001-26A

The landlord appeals the decision granting rent reductions due to decreased housing services.

F. 221 Scott St.

T001-25A

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The landlord of a Newly Covered Unit under Proposition I appeals the denial of a petition for rent increase based on comparable rents and landlord hardship.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - A. Minute Order Program
  - B. Costa-Hawkins (Civil Code Section 1954.53)
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

SHARON K. WASSERMAN  
PRESIDENT

Tuesday, December 1, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

DEC 14 1998

SAN FRANCISCO  
PUBLIC LIBRARY

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER President Wasserman called the meeting to order at 6:05 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||.

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Justman; Lightner;  
Marshall; Moore; Murphy; Wasserman.

Staff Present:

Grubb; Wolf.

Commissioner Mosser appeared on the record at 6:11 p.m.

III. Consideration of Appeals

A. 1700 Page St. #1, #7 & #8

T001-21-23R; T001-24A

The landlord's petition for certification of capital improvement costs for ten of twelve units was granted, in part. Three tenants and the landlord appeal the decision. The landlord appeals the hearing officer's denial of \$9,800 for exterior painting work done by the prior owner on the grounds that the tenants no longer benefit from the work because the new owner painted the building again two years later. The landlord contends on appeal that the extensive preparation of the building prior to the first paint job aided in weatherproofing, thereby prolonging the life of the building; whereas the latter paint job was done only for aesthetic reasons, was significantly less thorough and, therefore, less expensive. The tenants in unit #1 appeal the decision on the grounds of financial hardship. The tenant in unit #7 claims that the base rent amount in the Decision is incorrect as to her unit; that the condition of her bathroom was the result of deferred maintenance; and that only two items needed replacement and the rest of the work in her unit was unnecessary. The tenant in unit #8 maintains that the bathtub in her unit did not need replacement and, in fact, the new tub is smaller and does not have a sliding door.

MSC: To accept the landlord's appeal and remand the case to the hearing officer for a hearing on the costs of the exterior painting; the total cost allowed shall not exceed the cost of one entire paint job. (Lightner/Gruber: 5-0)



MSC: To accept the appeal of the tenants in unit #1 and remand the case for a hearing on the tenants' claim of financial hardship. (Marshall/Becker: 4-1; Lightner dissenting)

MSC: To accept the appeal of the tenant in unit #7 and remand the case for a hearing on the issue of the tenant's correct base rent only; to deny the appeal as to all other issues. (Justman/Gruber: 4-1; Marshall dissenting)

MSC: To deny the appeal of the tenant in unit #8. (Gruber/Lightner: 4-1; Marshall dissenting)

B. 849 North Point St.

T001-23A

The landlord's petition for certification of capital improvement costs was granted, but the portion of the petition requesting rent increases due to increased operating expenses was denied. A question regarding the rent history of the tenant in one unit remained unresolved because the rent history provided by the landlord in conjunction with the petition differed from that submitted in a prior case. On appeal, the landlord contends that the tenant was incorrectly reimbursed for what was mistakenly thought to be an overcharge, and requests a remand in order to determine the proper base rent amount as well as the correct amount of capital improvement passthrough.

MSC: To accept the appeal and remand the case to the hearing officer on the record to determine the tenant's proper base rent amount and allowable rent increases; a hearing will be held only if necessary. (Lightner/Gruber: 5-0)

C. 653-667 Bay St.

T001-24 thru-26R

The landlord's Petition for Extension of Time to Do Capital Improvement Work was granted. On appeal, three tenants assert that the hearing officer did not take into account the landlord's past record of negligence regarding conditions in the building and bad faith dealings with the tenants; and that the work does not necessitate the tenants vacating their units at all, and certainly not for a period in excess of three months. Additionally, the tenants offer two construction schedules which outline how the repairs could be completed without displacement of the tenants.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. 221 Scott St.

T001-25A

The landlord's petition for a rent increase for this Newly Covered Unit under Proposition I based on comparables was denied because the hearing officer found that the landlord had failed to prove landlord hardship nor establish the rent for comparable units with similar lengths of tenancy. The landlord appeals the decision on the grounds that: the entire petition should not have been



denied because the landlord could not find a comparable tenancy of over 8 years, especially when the tenant had agreed to a rent increase of \$130.00 at the hearing; the tenant voluntarily took early retirement at age 62, and has chosen to work part-time instead of seeking full-time employment; and the tenant benefited from extensive renovation of the building performed by the landlord.

MSC: To accept the appeal and remand the case to the hearing officer on the proper application of Rules and Regulations Section 6.11(a)(4)(A) to the facts of this case; a hearing will be held only if necessary. (Lightner/Gruber: 5-0)

#### IV. Old Business

##### A. Minute Order Program

Senior Hearing Officer Sandy Gartzman and Hearing Officer Lela Harris appeared to inform the Commissioners that the Minute Order Pilot Program, previously approved by the Board, is ready to be implemented; to answer any questions that the Commissioners might have; and to explain the internal checks that have been established to ensure that hearing officers continue to arrive at legally correct and well-reasoned decisions.

The voluntary Minute Order Program arose in response to the increased workload experienced by the agency, and the resulting increase in the time it takes between the filing of a petition and the issuance of a decision. Although a full and complete hearing will be held on all petitions, when appropriate, the hearing officer may issue a Minute Order instead of detailed Findings of Fact and Conclusions of Law. The Minute Order will be issued within 10 days of the hearing, and will not be subject to appeal by either party. However, within 15 days, either party may request that a full decision be issued, with full appeal rights.

Upon having their questions satisfactorily answered, the Commissioners thanked Ms. Harris and Ms. Gartzman for their hard work and gave their consent for the Program to go forward. Staff will continue to keep the Board informed as to the on-going progress of the Program.

#### V. Remarks from the Public

Jennifer Bradford, a tenant involved in the case at 653-657 Bay Street (T001-24R thru -26R) expressed frustration at the difficulty she experienced in trying to dispute her landlord's contractor's timetable for completion of the seismic retrofit work at her building; she has architectural experience and "knows the ropes" and still found it impossible to prove that the schedule provided was unreasonable.

#### III. Consideration of Appeals (cont.)



E. 948 "A" Rhode Island St.

T001-22A

The landlord's third Petition for Extension of Time to Do Capital Improvement Work was denied because the hearing officer found that: either the landlord has insufficient experience in executing the type of remodeling project he has undertaken in this building; or that the landlord has deliberately delayed the project in hopes that the tenant would give up her right to return to the property. On appeal, the landlord claims that: the hearing officer exhibited bias against him; he unintentionally underestimated the scope of the project, but all of the reasons he offered for the delays are valid; he, more than anyone, wishes for the project to be completed because of the adverse impact it has had on his personal life and the financial repercussions; the tenant has not communicated with him for thirteen months; it is unlawful to do any of the interior finish work until the entire building shell is completed and inspected; and he is well aware of the risk of a wrongful eviction lawsuit if he acts in bad faith and with wrongful intent.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

F. 2471 Bryant St.

T001-26A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,432.50 due to long-term habitability problems on the subject premises. The landlord failed to appear at the properly noticed hearing. On appeal, the landlord claims that he did not attend the hearing due to a family emergency. He also maintains that: the information provided by the tenant at the hearing was false; the lease states that the garage is the tenant's responsibility; the bedroom heater is not working because the tenants placed a large dresser in front of it; the carpet and walls were damaged by the tenant; and the tenant refused the owner access to the premises when he attempted to effectuate repairs.

After discussion, it was the consensus of the Board to continue consideration of this case to the meeting on January 5, 1999, in order for staff to contact the landlord and have him: explain and document the nature of the family emergency, under penalty of perjury; and explain why the new property manager failed to appear in his stead.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the October 24, 1998 Rules and Regulations.

B. The office workload statistics for the months of September and October, 1998.







C. An e-mail inquiry regarding the question of exemption from the rent restrictions of the Ordinance due to Costa-Hawkins from a landlord renting out a condominium unit with some pre-and some post-1996 tenancies, and a change from separately rented rental units to joint and several liability.

D. A letter from the Executive Director to landlord representative Al Goodwin of Rent Board Petition Associates, admonishing him for his abusive and uncalled-for conduct in hearings, especially a recent hardship remand hearing for a tenant disabled by AIDS asserting financial hardship. Mr. Goodwin was informed in no uncertain terms that, in the future, such conduct on his part will not be tolerated and will cause the hearing to be continued to another date, if necessary.

E. President Wasserman thanked the Deputy Director for a letter she wrote to a tenant at 1550 Bay Street concerning the denial of the tenants' appeals (S001-93R thru -S003-53R) asserting the applicability of the "anti-spec clause" (Rules and Regulations Section 6.10(f)).

#### VII. Director's Report

Executive Director Grubb discussed and finalized plans for the Commissioners' Holiday Party, which will be held at the South End Rowing Club on Sunday, December 13th, from 2:00 to 6:00 p.m.

#### IV. Old Business (cont.)

B. Costa-Hawkins (Civil Code Section 1954.53)

Discussion of this matter was continued to the December 15, 1998 meeting.

#### VIII. Calendar Items

December 8, 1998 - NO MEETING

December 15, 1998

6 appeal considerations

Old Business: Costa-Hawkins (Civil Code Section 1954.53)

December 22 & 29, 1998 - NO MEETINGS (Happy Holidays!)

#### IX. Adjournment

President Wasserman adjourned the meeting at 8:20 p.m.





SHARON K. WASSERMAN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY JUSTMAN  
MERIE T. LIGHTNER  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, 6:00 p.m.,  
December 15, 1998  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

DEC 14 1998

SAN FRANCISCO  
PUBLIC LIBRARY

rec'd copy for Post and 12/15/98

**AGENDA**

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 501 North Point St. #1103 T001-27R

The tenant appeals the dismissal of his petition due to lack of jurisdiction over the building, determined by the hearing officer to be a non-profit cooperative (Ordinance Section 37.2(r)(2)).

B. 1750 Vallejo St. #201 & #406 T001-28 & -29R

Two tenants appeal the remand decision granting certification of capital improvement costs and rent increases based on increased operating expenses.

C. 1337-1/2 Alabama St. T001-27A

The landlord appeals the decision granting claims of decreased housing services.

D. 405 - 18th Ave. T001-28A

The landlord appeals the decision granting rent reductions due to decreased housing services.

E. 1091 Bush St. #314 T001-30R

The tenants in one unit appeal the decision granting certification of capital improvement costs.

F. 315 Parnassus Ave. T001-29A



2 The landlord appeals the decision granting rent reductions due to decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

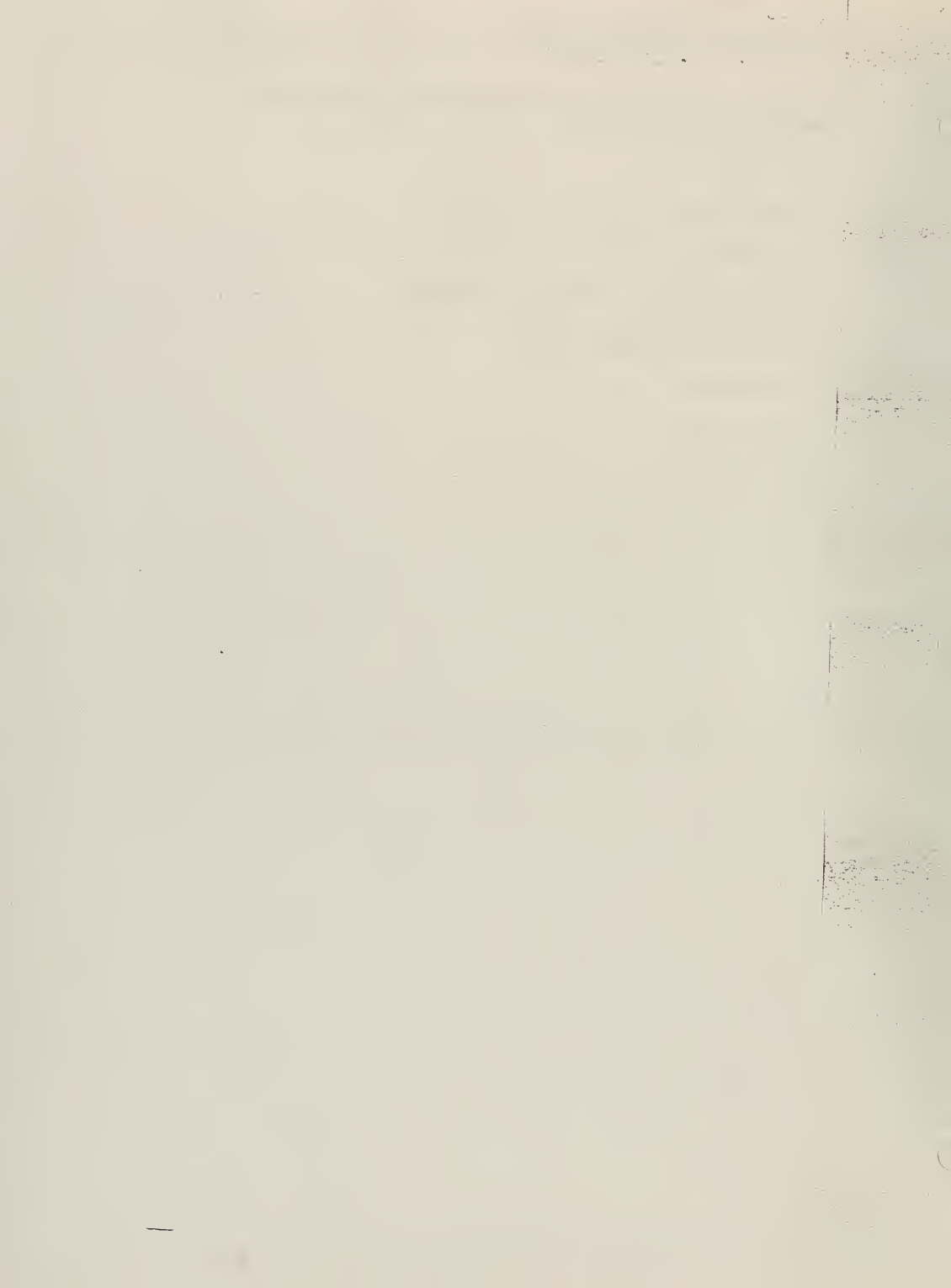
Costa-Hawkins (Civil Code Section 1954.53)

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



## City and County of San Francisco

Residential Rent Stabilization  
and Arbitration BoardMINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYORSHARON K. WASSERMAN  
PRESIDENTTuesday, December 15, 1998 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORPOLLY MARSHALL  
VICE-PRESIDENTI. Call to Order

LARRY BEACH BECKER Vice-President Marshall called the meeting to order at 6:06 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER ||

ANTHONY JUSTMAN

MERRIE T. LIGHTNER

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

## Roll Call

Commissioners Present:

Becker; Gruber; Marshall; Moore.

Commissioners not Present:

Bierly; Justman; Lightner; Mosser; Murphy;  
Wasserman.

Staff Present:

Grubb; Wolf.

III. Approval of the MinutesMSC: To approve the Minutes of November 19, 1998.  
(Becker/Gruber: 3-0)MSC: To approve the Minutes of December 1, 1998.  
(Becker/Gruber: 3-0)IV. Remarks from the Public

A tenant who resides at 1750 Vallejo St. (T001-28R & -29R) asked questions concerning the application of Rules and Regulations Section 6.10, which allows for rent increases based on increased operating expenses. Tenant representative Eladio Ballestas asked when the Board will start referring cases of retaliatory eviction to the Office of the City Attorney.

V. Consideration of Appeals

A. 1000 North Point St. #1103

T001-27R

The tenant filed a petition alleging a substantial decrease in housing services, the landlord's failure to repair and an unlawful increase in rent. The petition was dismissed without hearing due to lack of jurisdiction because the hearing officer determined that the subject building is a non-profit cooperative owned, occupied and controlled by a majority of the residents (Ordinance Section 37.2(r)(2)). On appeal, the tenant contends that: the building is subject to the jurisdiction of the Rent Board because it is not under the direct control of a majority of the cooperative residents; it is not occupied as required under the





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Articles of Incorporation; the rent for the unit may not be directly controlled or regulated by the corporation; and the landlord is not the corporation but, rather, individual shareholders who use their non-profit status to circumvent the Rent Ordinance.

Prior to the meeting, the tenant's representative had requested a 90-day extension in order to gather evidence to support the tenant's claim of Rent Board jurisdiction over the building. It was the consensus of the Board members in attendance to continue consideration of this case to the meeting of January 19, 1999, at which time it is expected that the tenant's appeal will be complete and no further extensions will be granted.

B. 1750 Vallejo St. #201 & #406

T001-28 & -29R

The landlords' petition seeking rent increases based on increased operating expenses and certification of capital improvement costs was granted, in part. Nineteen tenant appeals were granted and remanded for hearing on the following issues: to determine whether there were code violations in existence at the time of the noticed increase based on operating expenses; to clarify that Rules Section 6.12 does not require that notice to the landlord be in writing; and to give any tenants not originally allocated the costs of the new windows an opportunity to raise pertinent objections, if any. In her Decision on Remand, the hearing officer affirms that the cost of the new windows shall be allocated to all units in the building, because of the weatherproofing benefits provided; rejects the argument that the amount of the passthrough for the new windows should be reduced because the replacement vinyl windows are less expensive because no evidence of such lower cost was provided; and finds that the notices of rent increase based on increased operating expenses were issued subsequent to all code violations having been remedied. The tenants in unit #406 appeal the remand decision on the grounds that they failed to receive notice of the remand hearing and the tape recording of the hearing provided to them was unintelligible. They and the tenants in unit #201 again assert that the windows ultimately received by the tenants cost less than the windows for which the passthrough was certified.

A motion was made to remand this case to adjust the amount of the window passthrough to reflect the lower cost of the vinyl windows for all nineteen tenants who appealed the original Decision of Hearing Officer. After discussion, it became clear that there was no voting majority, and the matter was therefore continued to the meeting on January 5, 1999.

C. 1337-1/2 Alabama St.

T001-27A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$11,313.75 due to serious, long-standing habitability problems on the subject premises. On appeal, the landlord claims that there was insufficient evidence of extraordinary circumstances or long-term notice to justify the rent reductions doing back more than one year prior to the filing of the petition; and that the



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hearing officer disregarded the substantial evidence provided to prove that repairs to the unit were completed prior to the date of issuance of the decision.

MSC: To remand the case for a hearing on the issue of when rent reductions for conditions that were abated, if any, should terminate. (Becker/Gruber: 3-0)

D. 405 - 18th Ave.

T001-28A

The tenant's petition alleging substantially decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,402.65 due to increased noise from a commercial unit downstairs and \$177.76 in reimbursement for increased PG&E bills during a period of construction in the building. On appeal, the landlord maintains that the tenant has failed to provide evidence that the alleged disturbance constitutes a reduction in housing services, nor a violation of relevant noise ordinances; and that the removal of the loft that previously served as a sound barrier was required under the law and removed a fire hazard.

MS: To deny the appeal. (Becker/Marshall)

After discussion on the above motion, it became clear that there was no voting majority and this case was continued to the January 5, 1999 meeting.

E. 1091 Bush St. #314

T001-30R

The landlord's petition for certification of capital improvement costs to the tenants in twenty-one units was granted, resulting in a monthly passthrough in the amount of \$33.68. The tenants in one unit appeal the portion of the decision granting a passthrough for the costs of interior painting of the units, claiming that only minimal, sloppy patch painting over a part of the ceiling that had been re-sheet rocked after seismic retrofitting was performed, and that they should not be charged for a service that was not rendered.

MSC: To deny the appeal. (Gruber/Becker: 3-0)

F. 315 Parnassus (Lower)

T001-29A

The tenants' petition alleging a substantial decrease in housing services was granted, and the landlord was found liable to the tenants in the amount of \$1,624.00 due to the loss of storage space. The tenants had already been given a \$75.00 per month rent reduction by the landlord for loss of use of the garage, which the hearing officer determined to be sufficient compensation for this service. However, \$112.00 per month was granted for the additional loss of an adjacent room used for storage. On appeal, the landlord contends that she relied on an estoppel certificate filled out by the tenants and representations from the former owner that only the garage, and not the storage area, were included in the tenant's lease; and, since the tenants had paid no additional rent for use of the storage area, no rent reduction was warranted.



After discussion, due to the lack of a voting majority, this matter was continued to the next meeting.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A draft of proposed amendments to the Rent Ordinance in order to conform it to Civil Code Section 1954.53 (Costa-Hawkins) from Deputy City Attorney Marie Blits.

B. A letter from Ted Gullickson of the Tenants' Union concerning implementation issues surrounding the passage of Proposition G on the November ballot.

VII. Director's Report

Executive Director Grubb informed the Board that Proposition G will take effect at 12:01 on Friday, December 18th. The City Attorney does not have the final wording of Ordinance Section 37.9(a)(8) at this time, and has advised that, when providing copies of the Rent Ordinance, staff should provide a copy of Proposition G to the public at the same time .

VIII. Old Business

Costa-Hawkins (Civil Code Section 1954.53)

Discussion of this issue was continued to the meeting on January 5th, which will be attended by Deputy City Attorney Marie Blits. The Deputy Director referred the Board to an article in the December issue of San Francisco Apartment Magazine concerning the issue of "anniversary dates" for units that will otherwise be exempt pursuant to Costa-Hawkins.

IX. Calendar Items

December 22 & 29, 1998 - NO MEETINGS (Happy New Year!)

January 5, 1999

7 appeal considerations (1 cont. from 12/1; 3 cont. from 12/15)  
Old Business: Costa-Hawkins

X. Adjournment

Vice-President Marshall adjourned the meeting at 7:40 p.m.











